COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

A Tradition of Service

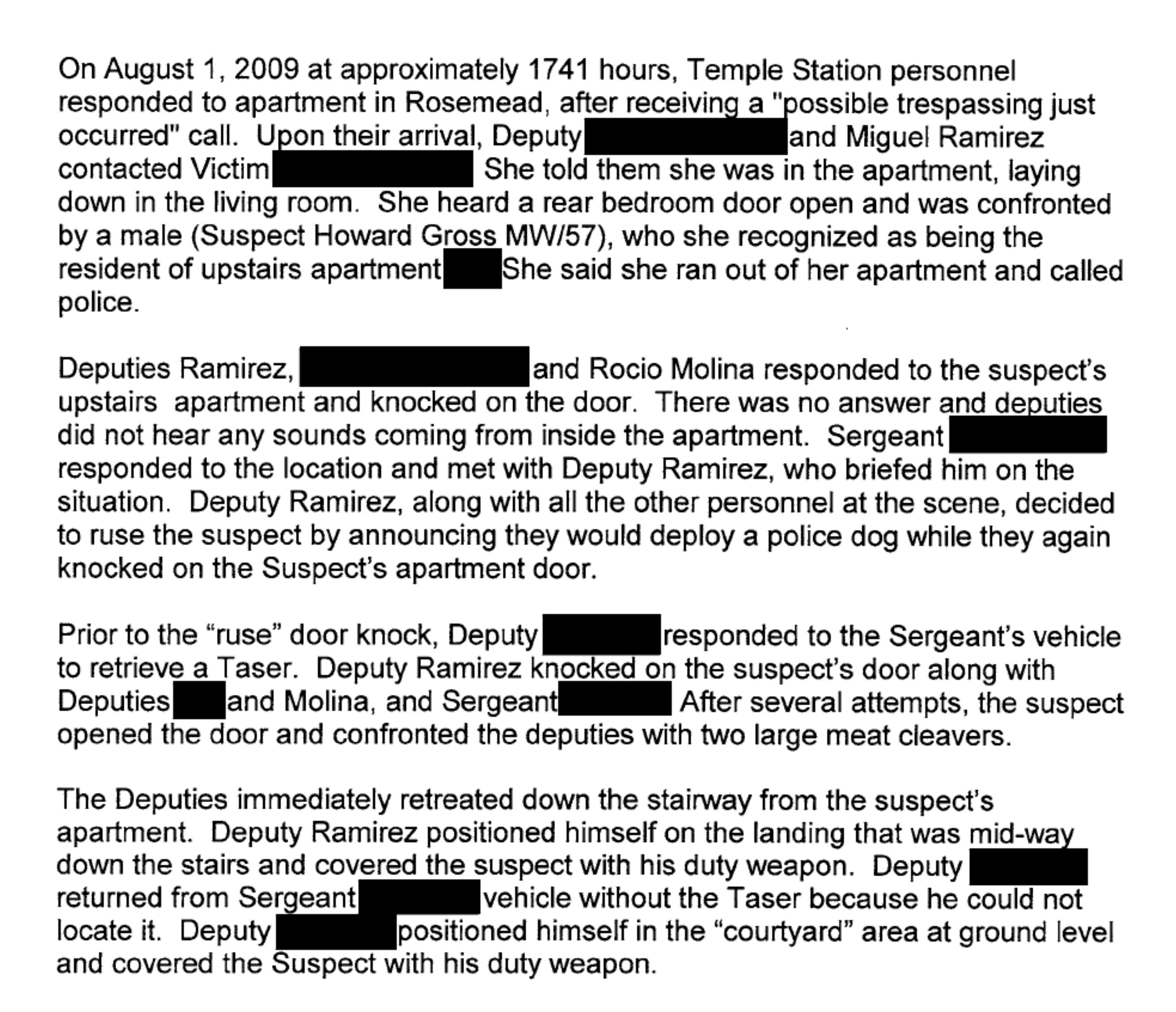
DATE: October 4, 2010

OFFICE CORRESPONDENCE FILE NO. SH2247861

FROM: ERIC B. SMITH, COMMANDER
LEADERSHIP AND TRAINING DIVISION

TO: KARYN MANNIS, CAPTAIN
INTERNAL AFFAIRS BUREAU

SUBJECT: **EXECUTIVE FORCE REVIEW COMMITTEE DISPOSITION:**
DEPUTY MIGUEL RAMIREZ,#[redacted]
DEPUTY [redacted]#[redacted]
TEMPLE STATION



On August 1, 2009 at approximately 1741 hours, Temple Station personnel responded to apartment in Rosemead, after receiving a "possible trespassing just occurred" call. Upon their arrival, Deputy [redacted] and Miguel Ramirez contacted Victim [redacted] She told them she was in the apartment, laying down in the living room. She heard a rear bedroom door open and was confronted by a male (Suspect Howard Gross MW/57), who she recognized as being the resident of upstairs apartment [redacted] She said she ran out of her apartment and called police.

Deputies Ramirez, [redacted] and Rocio Molina responded to the suspect's upstairs apartment and knocked on the door. There was no answer and deputies did not hear any sounds coming from inside the apartment. Sergeant [redacted] responded to the location and met with Deputy Ramirez, who briefed him on the situation. Deputy Ramirez, along with all the other personnel at the scene, decided to ruse the suspect by announcing they would deploy a police dog while they again knocked on the Suspect's apartment door.

Prior to the "ruse" door knock, Deputy [redacted] responded to the Sergeant's vehicle to retrieve a Taser. Deputy Ramirez knocked on the suspect's door along with Deputies [redacted] and Molina, and Sergeant [redacted] After several attempts, the suspect opened the door and confronted the deputies with two large meat cleavers.

The Deputies immediately retreated down the stairway from the suspect's apartment. Deputy Ramirez positioned himself on the landing that was mid-way down the stairs and covered the suspect with his duty weapon. Deputy [redacted] returned from Sergeant [redacted] vehicle without the Taser because he could not locate it. Deputy [redacted] positioned himself in the "courtyard" area at ground level and covered the Suspect with his duty weapon.

The suspect was standing at the top of the stairs, swinging the cleavers in front of him and clinking them together in a sharpening motion. Deputies ordered him to stop and drop the meat cleavers, but he refused. He yelled that they would have to kill him. The suspect looked at both Deputy [redacted] and Ramirez and raised the meat cleavers. Fearing for their lives, and almost simultaneously, Deputies [redacted] and Ramirez fired one round each from their duty weapons, striking the suspect.

The suspect fell down on the upper landing near his front door. Deputies Ramirez and [redacted] continued to cover the suspect as they approached him. Fire/rescue responded to the location and treated the suspect.

Suspect Gross He was transported to Los Angeles County/USC Medical Center where he was pronounced dead.

On September 9. 2010 the Executive Force Review Committee convened and conducted a review regarding the facts of this case. The applicable policies that were evaluated by the committee were: MPP §§ 3-01/025.00, Use of Force; 3-01/025.30, Use of Firearms and Deadly Force; 3-01/025.10, Unreasonable Force; and 3-01/050.10, Performance to Standards.

Concerning:

MPP § 3-01/025.00, Use of Force, MPP § 3-01/025.30, Use of Firearms and Deadly Force, and MPP § 3-01/025.10, Unreasonable Force, the Committee determined that the force used by Deputies Miguel Ramirez,#[redacted] and Deputy [redacted] #[redacted] was reasonable and necessary and in compliance with Department policy.

MPP § 3-01/050.10, Performance to Standards, the Committee determined that the tactics employed by all personnel in this incident were within Department Policy.

[signature]

Eric B. Smith, Commander

EBS:RSP/rsp

SH2247861

Table of Contents

Los Angeles County Sheriff's Department

Officer Involved Shooting

Report Date: 04/12/10	Bureau/Station/Facility: Temple Station	Admin. Invest.? ☐	Hit? ☐

Incident Information

URN: 009-09959-0531-056		Date: 08/01/09	Time: 1804
City or Station: Temple Station		Nature of Incident:	
Location: [redacted] Ramona Blvd, Rosemead			

Location Type (*circle one or more*): Backyard, Beach, Business, Freeway, Industrial, Park, Parking Lot, Residence, Rural, School, Street, Other: Apart. complex

Lighting (*circle only one*): Darkness, **Daylight**, Other, Street Lights

Weather (*circle only one*): **Clear**, Cloudy, Fog, Rain

Distance: 15 and 25 feet

Incident Type (*circle one or more*): Accidental, **Armed Person**, Fleeing Suspect, Foot Pursuit, Gun Take Away, Moving Vehicle, Sniper/Ambush, Startle, Struggle Involved, Traffic Stop, Unarmed Person, Unintentional, Vehicle Pursuit, Warrant Service, Warning Shot, Other:

Initiated by (*circle only one*): Arrest Warrant, **Call**, Observation, One Person Unit, Other, Search Warrant, Two Person Unit

Prior Activity (*circle only one*): Detective, Inmate Transport, Other, **Routine Patrol**

Total # of Shots Fired by Deputy	Total # of Shots Fired by Suspect	Aero Unit?	Canine Unit?
2		☐	☐

Employee Witnesses

Employee #	Last Name	First Name	M.I.	ShiftTime (*circle only one*)	ShiftType (*circle only one*)
[redacted]	[redacted]	[redacted]		[redacted]	[redacted]
[redacted]	Molina	Rocio		EM **PM** Day	**Regular** Overtime Off Duty
[redacted]	[redacted]	[redacted]		[redacted]	[redacted]

Non-Employee Witnesses

Last Name		First Name		M.I.
See Page 4 of summary				
Street Address	**City**	**Zip Code**	**Work Ph**	**Home Ph**
Last Name		**First Name**		**M.I.**
Street Address	**City**	**Zip Code**	**Work Ph**	**Home Ph**
Last Name		**First Name**		**M.I.**
Street Address	**City**	**Zip Code**	**Work Ph**	**Home Ph**

Supervisors

Employee #	Last Name	First Name	M.I.	(*circle one or more*)
[redacted]	[redacted]	[redacted]		[redacted]
				On Duty, Present during shooting, Witness to shooting, Involved in shooting

Watch Sergeant

Employee #	Last Name	First Name	M.I.
[redacted]	Palomo	Yolanda	

Watch Commander

Employee #	Last Name	First Name	M.I.
[redacted]	Smith	Allan	

PSTD Use Only
SH # 2247861

Officer Involved Shooting

URN: 009-09959-0531-056

Rollout Information

Arrival Date	Arrival Time	Date Submitted	Date of Recommendation
08/01/09	2000	04/12/10	

Employee #	Last Name	First Name	M.I
[redacted]	Bly	David	
[redacted]	Gealta	Diana	
[redacted]	Grimaldi	Mike	

Shooting / Force Information

Method

(AW) Arwen
(BC) Baton:(Control)
(BI) Baton:(Impact)
(BF) Bodily Fluids
(CN) Canine
(CR) Carotid Restraint
(CH) Choke Hold
(CT) Control Holds:(Control Techniques)
(TT) Control Holds:(Team Takedown)
(TD) Control Holds:(Takedown)
(CE) Chemical
(OC) Chemical Agents (OC Spray)
(TG) Chemical Agents (Tear Gas)
(EX) Explosives
(FH) Firearm (Handgun)
(FR) Firearm (Rifle)
(FS) Firearm (Shotgun)
(FO) Firearm (Other)
(FB) Flashbang
(FL) Flashlight
(OE) Other Weapon: Edged
(OV) Other Weapon: Vehicle
(OB) Other Weapon: Blunt Object
(OO) Other Weapon: Other
(PK) Personal Weapon: Feet/Leg: (Kick)
(PS) Personal Weapon: Feet/Leg: (Sweep)
(PH) Personal Weapon (Hand/Arm)
(PP) Personal Weapon (Push)
(PO) Personal Weapon (Other)
(RS) Resistance
(CN) Restraint Device (Capture Net)
(RH) Restraint Device (Handcuffs)
(HB) Restraint Device:Hobble (Legs Only)
(TP) Restraint Device:Hobble (TARP)
(RE) Restraint Device: REACT Belt
(SP) Sap
(SH) Shield
(SG) 37mm Stinger
(SB) Sting Ball
(ST) Stun Bag
(TR) Taser
(UC) Uncooperative

Type of Injury

(AB) Abrasion
(BR) Bruise
(BU) Burn
(CP) Complaint of Pain
(CO) Concussion
(DH) Death
(DI) Dislocation
(DB) Dog Bite
(FR) Fractures
(GS) Gunshot
(HB) Human Bite
(LC) Lacerations
(ND) Nerve Damage
(OD) Organ Damage
(PA) Paralysis
(PW) Puncture Wound
(SD) Soft Tissue Damage
(ST) Sprain/Twists
(UN) Unconscious
(RM) Refused Med Treatment
(NN) NONE

Body Part Injured

(AD) Abdomen
(AK) Ankle
(AR) Arm
(BK) Back
(BT) Buttocks
(CH) Chest
(EL) Elbow
(FA) Face
(FE) Feet
(FI) Fingers
(GE) Genitals
(GR) Groin
(HD) Hand
(HE) Head
(HI) Hip
(IN) Internal
(KN) Knees
(LE) Leg
(NK) Neck
(SH) Shoulder
(WR) Wrist

Brand

(AK) AK-47
(BN) Benelli
(BR) Beretta
(BW) Browning
(CH) Charter Arms
(CO) Colt
(DA) Davis Industries
(GL) Glock
(HA) Harrington & Richardson
(HI) Hi Standard
(HK) H & K
(IT) Ithica
(IV) Iver Johnson
(JE) Jennings
(LO) Lorcin
(LU) Luger
(MA) Marlin
(MO) Mossberg
(NC) NCI aka SKS
(NA) North American
(NO) Norinco
(RA) Raven
(RM) Remington
(RG) RG
(RI) RGI
(RO) Rossi
(SW) Smith & Wesson
(SR) Sturm Ruger
(ST) Sterling
(TA) Taurus
(WE) Weatherby
(WN) Winchester
(US) US Government
(YY) Handmade (Inmate)
(XX) Homemade (Non-Inmate)
(ZZ) Other Brand

Caliber

(9) 9 mm
(10) 10 mm
(12) 12 guage
(20) 20 guage
(21) .22-250
(22) .22 caliber
(23) .223 caliber
(24) .243 caliber
(25) .25 caliber
(30) .308 caliber
(35) .357 caliber
(36) 30-60 caliber
(38) .38 caliber
(40) .40 caliber
(41) .410 guage
(44) .44 caliber
(45) .45 caliber
(50) 50 mm
(SL) Slug
(WW) Other caliber

FORCE APPLIED *(one code per block)*

Used By (E# or S#)	Used Against (E# or S#)	Method (Code)	Brand (Code)	Caliber (Code)	Authorized Weapon? (Y/N)	Authorized Ammunition? (Y/N)	Type of Injury (Code)	Body Part (Code)
E-1	S-1	FH	BR	9	Y	Y	GS	CH
E-2	S-1	FH	ZZ	9	Y	Y	GS	CH

Officer Involved Shooting
Involved Employee Information

URN: 009-09959-0531-056

Involved Employee

E 1

Employee # [redacted]	Last Name: Ramirez	First Name: Miguel	M.I.
Sex: M Race: H	Rank: Deputy	Unit Assignment: Temple Station	Work Assignment (Unit #, Module, etc.): 54/PM
ShiftTime (*circle only one*): EM **PM** Day	ShiftType (*circle only one*): **Regular** Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case #: — Interviewed? ☒
Hrs of sleep prior to shooting: 8+	Duty Time (hrs): [redacted]	Clothing (*circle only one*): Plain Clothes no Vest; Raid Jacket w/ Vest; Plain Clothes w/ Vest; Uniform no Vest; Raid Jacket no Vest; **Uniform w/ Vest**	Other Factors:
Age: [redacted] Height: 507 Weight: 190			
Range Qualification Date: [redacted]		PPC Qualification Date:	Laser Training Date:
Certified with Weapon Used? [redacted]	Patrol Certification? [redacted]	Certification Unit: [redacted]	Prior Shootings? [redacted] Number of Prior Shootings: [redacted] Directed Force: [redacted]
Weapons Fired Brand: Beretta	Caliber: 9mm # Shots: 1	Weapons Fired Brand:	Caliber: # Shots:
Field Training Officer Emp # [redacted]	Last Name [redacted]	First Name [redacted]	M.I.
Field Training Officer Emp # [redacted]	Last Name [redacted]	First Name [redacted]	M.I.

E 2

Employee # [redacted]	Last Name [redacted]	First Name [redacted]	M.I.
Sex: [redacted] Race: [redacted]	Rank: Deputy	Unit Assignment: [redacted]	Work Assignment (Unit #, Module, etc.): [redacted]
ShiftTime (*circle only one*): [redacted]	ShiftType (*circle only one*): [redacted]	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case #: — Interviewed? ☒
Hrs of sleep prior to shooting: [redacted]	Duty Time (hrs): [redacted]	Clothing (*circle only one*): Plain Clothes no Vest; Raid Jacket w/ Vest; Plain Clothes w/ Vest; Uniform no Vest; Raid Jacket no Vest; **Uniform w/ Vest**	Other Factors:
Age: [redacted] Height: [redacted] Weight: [redacted]			
Range Qualification Date: [redacted]		PPC Qualification Date:	Laser Training Date:
Certified with Weapon Used? [redacted]	Patrol Certification? [redacted]	Certification Unit: [redacted]	Prior Shootings? [redacted] Number of Prior Shootings: [redacted] Directed Force: [redacted]
Weapons Fired Brand: Sig-Sauer	Caliber: 9mm # Shots: 1	Weapons Fired Brand:	Caliber: # Shots:
Field Training Officer Emp # [redacted]	Last Name [redacted]	First Name [redacted]	M.I.
Field Training Officer Emp # [redacted]	Last Name [redacted]	First Name [redacted]	M.I.

E ___

Employee #	Last Name	First Name	M.I.
Sex: Race:	Rank:	Unit Assignment:	Work Assignment (Unit #, Module, etc.):
ShiftTime (*circle only one*): EM PM Day	ShiftType (*circle only one*): Regular Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case #: — Interviewed? ☐
Hrs of sleep prior to shooting:	Duty Time (hrs):	Clothing (*circle only one*): Plain Clothes no Vest; Raid Jacket w/ Vest; Plain Clothes w/ Vest; Uniform no Vest; Raid Jacket no Vest; Uniform w/ Vest	Other Factors:
Age: Height: Weight:			
Range Qualification Date:		PPC Qualification Date:	Laser Training Date:
Certified with Weapon Used? ☐	Patrol Certification? ☐	Certification Unit:	Prior Shootings? ☐ Number of Prior Shootings: Directed Force: ☐
Weapons Fired Brand:	Caliber: # Shots:	Weapons Fired Brand:	Caliber: # Shots:
Field Training Officer Emp #	Last Name	First Name	M.I.
Field Training Officer Emp #	Last Name	First Name	M.I.

Officer Involved Shooting
Suspect Information

IRN: 009-09959-0531-056

Suspect Information

S 1

Last Name: Gross	First Name: Howard	M.I.
AKA Last Name	First Name	M.I.

Sex: M Race: W	Street Address: [redacted]	City: [redacted]	State & Zip Code: [redacted]
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: 57 D.O.B. 12/18/51	Height: 506 Weight: 180	FBI # [redacted]	CII # [redacted]
Booking # none	Primary Charge: none	Secondary Charge: none	
Coroner Case? [X]	Coroner Case # 2009-05331	Intoxication/Drug Usage? [ ]	Substance Used:
Armed? [X]	Apprehended? [ ]	Mental Illness? [ ]	Criminal History? [redacted]
Vehicle Make: none	Model:	Year:	

S __

Last Name	First Name	M.I.
AKA Last Name	First Name	M.I.

Sex: Race:	Street Address:	City	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #	CII #
Booking #	Primary Charge:	Secondary Charge:	
Coroner Case? [ ]	Coroner Case #	Intoxication/Drug Usage? [ ]	Substance Used:
Armed? [ ]	Apprehended? [ ]	Mental Illness? [ ]	Criminal History? [ ]
Vehicle Make	Model:	Year:	

S __

Last Name	First Name	M.I.
AKA Last Name	First Name	M.I.

Sex: Race:	Street Address:	City	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #	CII #
Booking #	Primary Charge:	Secondary Charge:	
Coroner Case? [ ]	Coroner Case #	Intoxication/Drug Usage? [ ]	Substance Used:
Armed? [ ]	Apprehended? [ ]	Mental Illness? [ ]	Criminal History? [ ]
Vehicle Make	Model:	Year:	

S __

Last Name	First Name	M.I.
AKA Last Name	First Name	M.I.

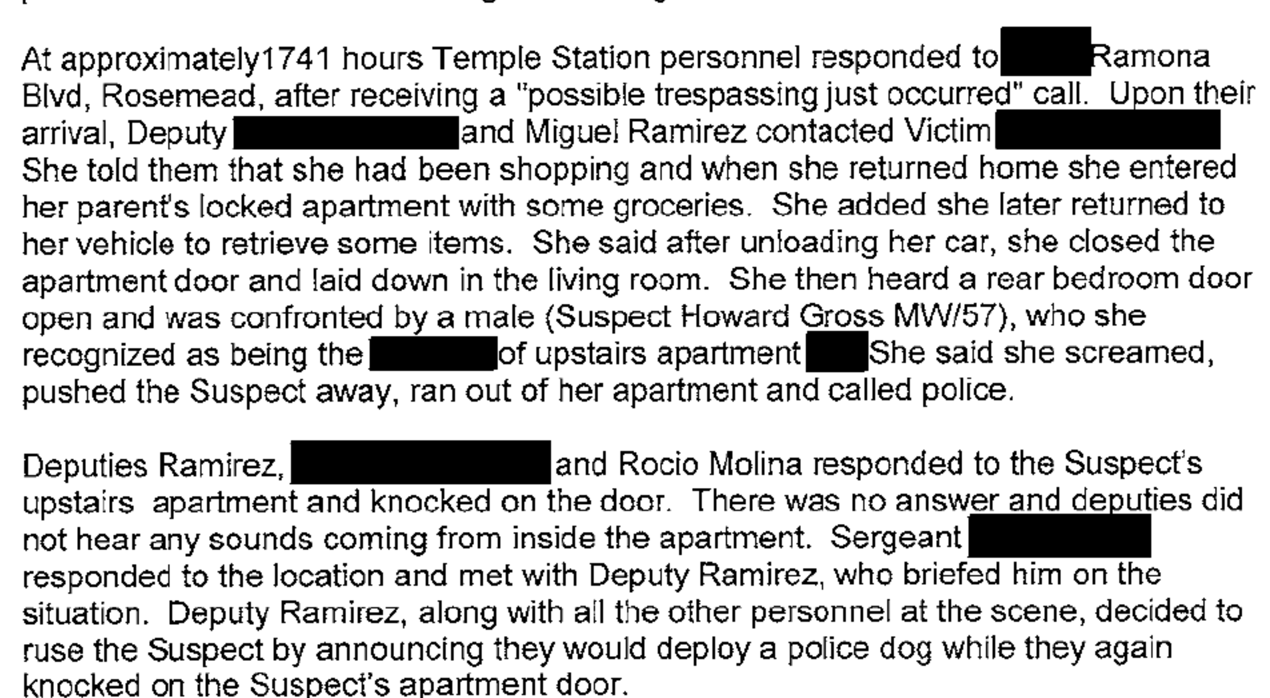
Sex: Race:	Street Address:	City	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #	CII #
Booking #	Primary Charge:	Secondary Charge:	
Coroner Case? [ ]	Coroner Case #	Intoxication/Drug Usage? [ ]	Substance Used:
Armed? [ ]	Apprehended? [ ]	Mental Illness? [ ]	Criminal History? [ ]
Vehicle Make	Model:	Year:	

See Other Side

INVESTIGATIVE SUMMARY
DEPUTY INVOLVED HIT SHOOTING
IAB CASE NUMBER SH2247861
URN #009-09959-0531-056

On August 1, 2009, at approximately 2000 hours, Sergeants David Bly and Diana Gealta along with Lieutenant Mike Grimaldi responded to [redacted] Ramona Blvd, Rosemead, regarding a deputy involved hit shooting involving personnel from Temple Station. Homicide Investigators Jonas Shipe and Angus Ferguson responded to the location to conduct the criminal investigation. Robert Miller from the Office of Independent Review also responded.

IAB Lieutenant Grimaldi checked to see that the Watch Commander, Lieutenant Smith, took reasonable steps to ensure that the involved and witness personnel did not discuss the incident among themselves or with uninvolved persons prior to being interviewed by the assigned investigators, and that the involved and witness personnel did not collectively consult with their attorney or representative. In addition, IAB Lieutenant Grimaldi checked to see if the Watch Commander attempted to have involved and witness personnel gather in the company of a supervisor until they have provided a statement to the assigned investigators.



At approximately1741 hours Temple Station personnel responded to [redacted] Ramona Blvd, Rosemead, after receiving a "possible trespassing just occurred" call. Upon their arrival, Deputy [redacted] and Miguel Ramirez contacted Victim [redacted] She told them that she had been shopping and when she returned home she entered her parent's locked apartment with some groceries. She added she later returned to her vehicle to retrieve some items. She said after unloading her car, she closed the apartment door and laid down in the living room. She then heard a rear bedroom door open and was confronted by a male (Suspect Howard Gross MW/57), who she recognized as being the [redacted] of upstairs apartment [redacted] She said she screamed, pushed the Suspect away, ran out of her apartment and called police.

Deputies Ramirez, [redacted] and Rocio Molina responded to the Suspect's upstairs apartment and knocked on the door. There was no answer and deputies did not hear any sounds coming from inside the apartment. Sergeant [redacted] responded to the location and met with Deputy Ramirez, who briefed him on the situation. Deputy Ramirez, along with all the other personnel at the scene, decided to ruse the Suspect by announcing they would deploy a police dog while they again knocked on the Suspect's apartment door.

Prior to the "ruse" door knock, Deputy [redacted] responded to the Sergeant's vehicle to retrieve a Taser. Deputy Ramirez knocked on the Suspect's door along with Deputies [redacted] and Molina, and Sergeant [redacted] After several attempts, the Suspect opened the door and confronted the deputies with two large meat cleavers.

The Deputies immediately retreated down the stairway from the Suspect's apartment. Deputy Ramirez positioned himself on the landing that was mid-way down the stairs and covered the Suspect with his duty weapon. Deputy [redacted] returned from Sergeant [redacted] vehicle without the Taser because he could not locate it. Deputy [redacted] positioned himself in the "courtyard" area at ground level and covered the Suspect with his duty weapon. The Suspect was standing at the top of the stairs, swinging the cleavers in front of him and clinking them together in a sharpening motion. Deputies ordered him to stop and drop the meat cleavers, but he refused. He yelled that they would have to kill him. The Suspect looked at both Deputy [redacted] and Ramirez and raised the meat cleavers. Fearing for their lives, and almost simultaneously, Deputies [redacted] and Ramirez fired one round each from their duty weapons, striking the suspect.

The Suspect fell down on the upper landing near his front door. Deputies Ramirez and [redacted] continued to cover the Suspect as they approached him. Fire/rescue responded to the location and treated the Suspect.

Suspect Gross sustained two gunshot wounds to the upper torso and a through-and-through to hsi right hand. He was transported to Los Angeles County/USC Medical Center where he was pronounced dead by Doctor Yen at 1843 hours.

IAB Note: The summary of this incident is based on physical evidence collected at the scene by Los Angeles County Sheriff's Department Crime Lab personnel, Homicide investigator's observations, as well as information obtained from the original crime report and supplemental reports along with interviews of the involved employee and witnesses. (*Refer to Exhibits A through D*)

INVOLVED PERSONNEL

Ramirez, Miguel, Deputy Sheriff, [redacted]
Field Operations Region I
Temple Station

Work History



Date of Employment 11/02/2000
Date Assigned to Patrol [redacted]
Date Completed Patrol Training [redacted]
Prior Shooting Incidents [redacted]
Prior Founded Force Incidents [redacted]



[redacted] Deputy Sheriff, #[redacted]

Work History



Date of Employment [redacted]
Date Assigned to Patrol [redacted]
Date Completed Patrol Training [redacted]
Prior Shooting Incidents [redacted]
Prior Founded Force Incidents [redacted]

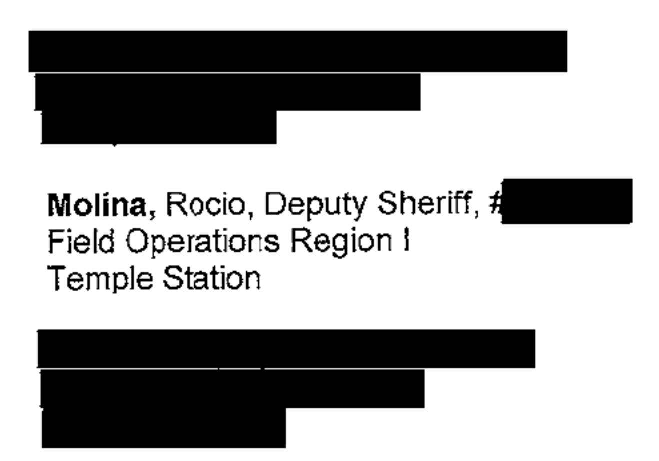
SUSPECT

Cross, Harold, MW/57, DOB: 12/18/1951, Deceased

Suspect Cross' Consolidated Criminal history Report (CCHRS) showed he had been [redacted]

IAB Note: See to Exhibit "A" pages 79-90 for further information.

SWORN WITNESSES

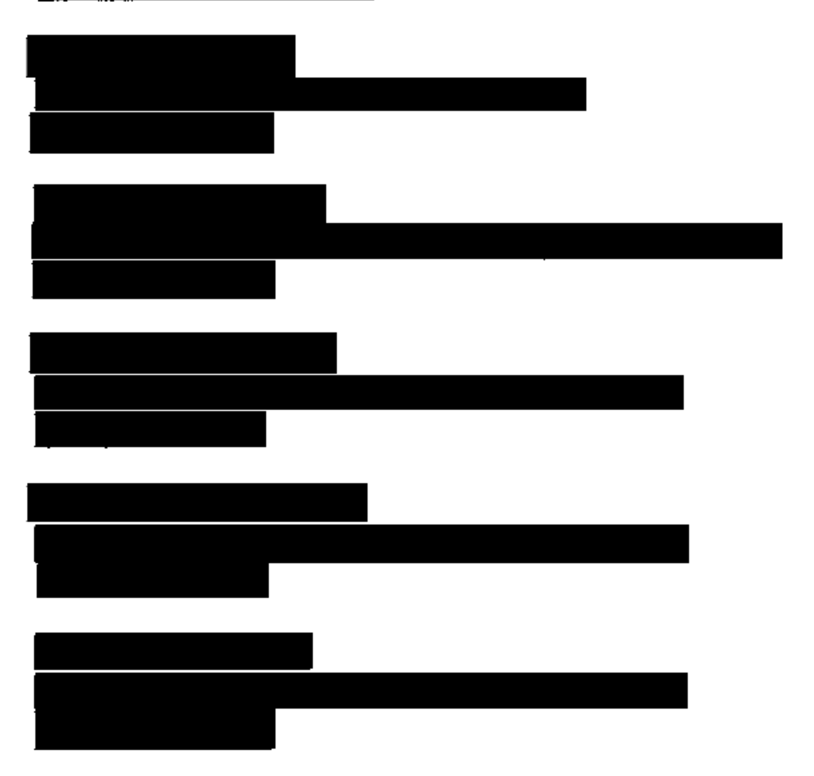


[redacted]

Molina, Rocio, Deputy Sheriff, #[redacted]
Field Operations Region I
Temple Station

[redacted]

CIVILIAN WITNESSES



[redacted]

SUSPECT INJURIES

Suspect Gross sustained three gunshot wounds, one to his upper front side abdomen, one to his right hand, and one to his front pelvis area. Suspect Gross was transported to Los Angeles County USC Medical Center where he received additional medical treatment. Doctor Yen pronounced the Suspect dead at 1843 hours. The indication was the gun shot wounds to Suspect Gross' right hand and pelvis occurred by a single round, traveling through the right hand to the pelvis.

IAB Note: See Exhibit "A", pages 91-122, for the autopsy report #2009-05331 for further information.

DEPUTY INJURIES

None

PHYSICAL EVIDENCE

The following items of evidence related to the shooting were collected from [redacted] Ramona Blvd, Rosemead 91770.

EV	2	One meat cleaver with gray duct tape wrapped around the handle, located on the upstairs landing near the Suspect front door.
Item	3	One fired bullet jacket recovered on the upstairs landing adjacent to the east stairway.
EV	4	One meat cleaver with gray duct tape wrapped around the handle, located on the upstairs landing near the Suspect front door.
Item	6	One fired 9MM Lugar caliber cartridge case recovered from the grass area adjacent to the east stairway.
Item	7	One fired 9MM Lugar caliber cartridge case recovered from the concrete parking area located adjacent to the east stairway.

IAB Note: See Exhibit "A" pages 70-78 for Crime Scene Investigator's reports and crime scene diagram for further information.

IAB Note: See Exhibit "B" for crime scene photos and a CD containing all the crime scene photographs.

<u>**INVESTIGATORS OBSERVATIONS**</u>

The physical evidence at [redacted] Ramona Blvd Rosemead appeared to be consistent with witness' and deputies' versions of events.

A review of the radio dispatch tapes revealed the following:

The whole incident, from the time the call was dispatched (1732 hours) until the suspect was shot (1804 hours), took approximately 32 minutes.

On Dispatch-11, at 1803 hours, [redacted] Sergeant [redacted] advised 10-33 regarding the 459 call, the suspect has machetes and being detained at gun point.

On Dispatch-11, at 1804 hours, [redacted] advised 998 and requested 902R to respond. Units were responding to the location to clear the Suspect's apartment.

On Dispatch-11, at 1805 hours, [redacted] advised no deputies injured.

On Dispatch-11, at 1807 hours, [redacted] requested additional deputies to conduct safety checks of apartments in the complex.

IAB Note: See Exhibit "C" for a compact disk containing recordings of the radio traffic and the 911 call from [redacted]

IAB Note: See Miscellaneous Documents for a copy of the dispatched call, Tag 242.

WEAPONS USED BY DEPUTY PERSONNEL

Ramirez, Miguel, Deputy Sheriff

Service Weapon: Department authorized/issued Beretta 9mm, Model 92FS, semi-automatic pistol, serial number BER[redacted]

Ammunition: Luger, 9mm, one round fired with 15 rounds left in weapon.

Shell Casings: One expended shell casing (Item-7) was found at the shooting scene near where Deputy Ramirez reported shooting from.

Date last qualified: [redacted]

[redacted] Deputy Sheriff

Service Weapon: Department authorized/issued Sig Sauer 9mm, Model P226, semi-automatic pistol, serial number [redacted]

Ammunition: Luger, 9mm, one round fired with 15 rounds left in weapon.

Shell Casings: One expended shell casing (Item-6) was found at the shooting scene near where Deputy Ramirez reported shooting from.

Date last qualified: [redacted]

IAB Note: See Exhibit "A" page 76 where Firearms Examiner, Phil Teramoto, noted the deputies weapons were tested and found to be functional.

WEAPONS USED BY SUSPECT CROSS

Two, butcher type, meat cleavers.

PROPERTY DAMAGE

None

CRIMINAL INVESTIGATOR/CHARGES FILED

None

LIGHTING AND WEATHER CONDITIONS

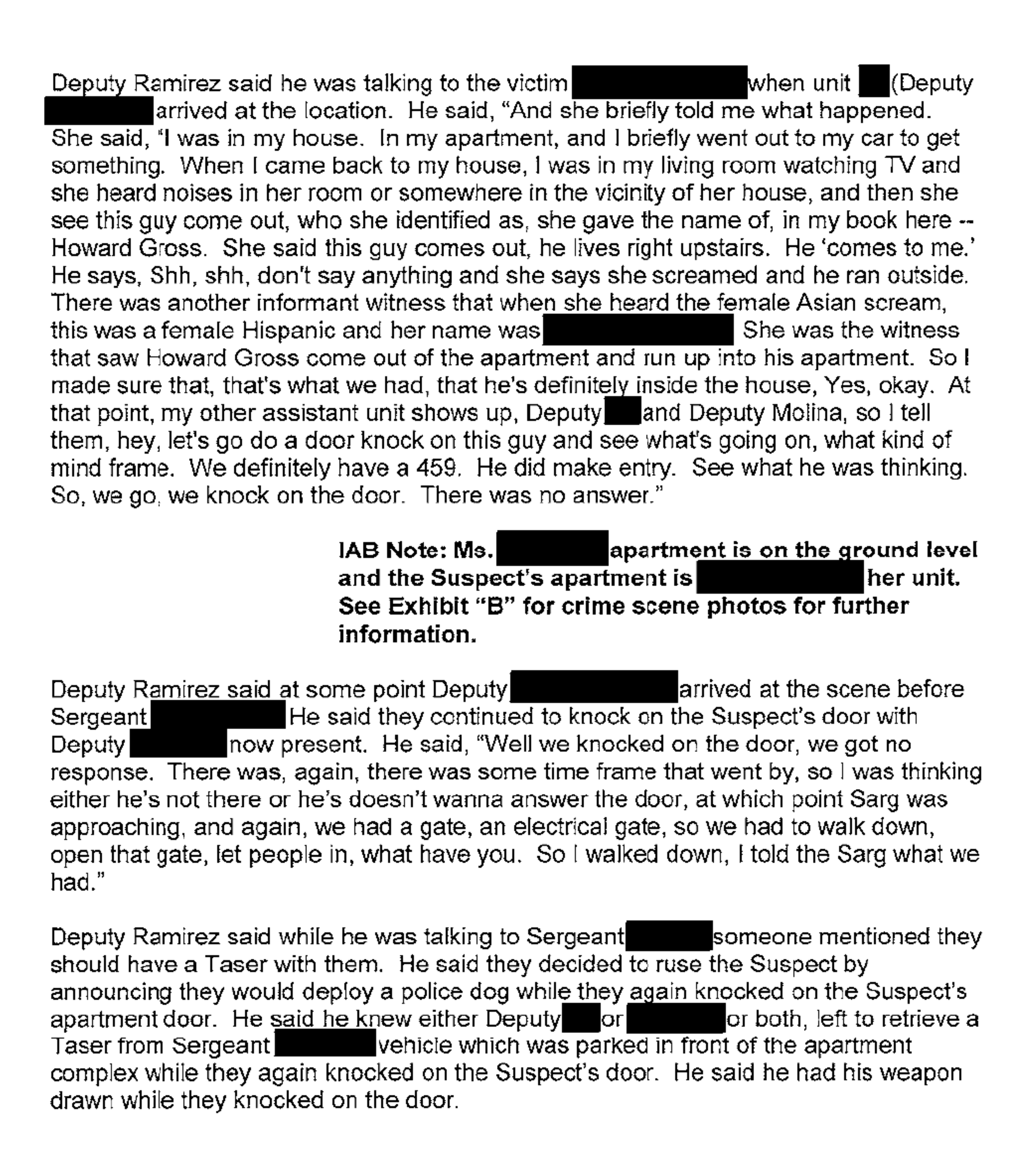
The incident occurred during evening daylight hours. The weather was warm and clear.

INVOLVED EMPLOYEE STATEMENTS

Deputy Miguel Ramirez, #[redacted] Temple Station, was interviewed on August 1, 2009 at 2249 hours by Homicide Detectives Shipe and Ferguson. The interview took place at Temple Station. Deputy Ramirez was also interviewed on February 23, 2010 at 1015 hours by IAB sergeants David Bly and Diana Gealta The interview took place at Internal Affairs Bureau and both interviews were recorded for review. The following is a summary of both interviews.

Deputy Ramirez said he was working unit 53T1 PM when he received a possible 459JO call. He said, "The call came out as a 459 Joe just occurred. The call had something in relation to this person was inside the informant's house and ran out the door. And that the informant believed that he was in his apartment upstairs. I just remember that the call was very vague. There was no description. There was nothing. When I started to respond there, I requested Aero and whatever units I had out in the field. Being that I'm, I was traffic car that day, I know that all of rest of my Rosemead units were tied up that day." He said unit [redacted] Deputies, [redacted] and Molina, were also responding to the call.

Deputy Ramirez said when he arrived at the call, Aero was over head asking him the status of the call. He said he did not coordinate the call with unit [redacted] He said, "Right, I just, I just told him, 'cause I think they had, they did some updates and they said that the informant was gonna be waiting for me outside the location. And yes, I was already on L-TAC I believe at that time. And Aero was overhead inquiring about what's going on. Well, at first we didn't know exactly what we had. I was, I was thinking to do a containment, you know, 'cause, you know, it's not likely that you have a 459 Joe and someone's gonna go, you know, within the perimeter, or go into another apartment building. Usually they're gonna run and over a wall, go somewhere else. When that - - when I had them respond, we were the first ones, I told 'em - - Aero was still overhead, I told 'em - - and Aero's like, 'Okay, what's going on?' and I told Aero, 'Looks like it's gonna be a named suspect.' And I just remember Aero going over, 'Okay, so are you gonna need us or not?' And I'm like, I'm like, 'You know what, just let me get another unit to, you know, go 97 or Code 6, and then, then I'll be comfortable if you take off.' I just wanna make sure I have another unit 'cause I didn't have anybody with me."



Deputy Ramirez said he was talking to the victim [redacted] when unit [redacted] (Deputy [redacted] arrived at the location. He said, "And she briefly told me what happened. She said, "I was in my house. In my apartment, and I briefly went out to my car to get something. When I came back to my house, I was in my living room watching TV and she heard noises in her room or somewhere in the vicinity of her house, and then she see this guy come out, who she identified as, she gave the name of, in my book here -- Howard Gross. She said this guy comes out, he lives right upstairs. He 'comes to me.' He says, Shh, shh, don't say anything and she says she screamed and he ran outside. There was another informant witness that when she heard the female Asian scream, this was a female Hispanic and her name was [redacted] She was the witness that saw Howard Gross come out of the apartment and run up into his apartment. So I made sure that, that's what we had, that he's definitely inside the house, Yes, okay. At that point, my other assistant unit shows up, Deputy [redacted] and Deputy Molina, so I tell them, hey, let's go do a door knock on this guy and see what's going on, what kind of mind frame. We definitely have a 459. He did make entry. See what he was thinking. So, we go, we knock on the door. There was no answer."

> **IAB Note: Ms. [redacted] apartment is on the ground level and the Suspect's apartment is [redacted] her unit. See Exhibit "B" for crime scene photos for further information.**

Deputy Ramirez said at some point Deputy [redacted] arrived at the scene before Sergeant [redacted] He said they continued to knock on the Suspect's door with Deputy [redacted] now present. He said, "Well we knocked on the door, we got no response. There was, again, there was some time frame that went by, so I was thinking either he's not there or he's doesn't wanna answer the door, at which point Sarg was approaching, and again, we had a gate, an electrical gate, so we had to walk down, open that gate, let people in, what have you. So I walked down, I told the Sarg what we had."

Deputy Ramirez said while he was talking to Sergeant [redacted] someone mentioned they should have a Taser with them. He said they decided to ruse the Suspect by announcing they would deploy a police dog while they again knocked on the Suspect's apartment door. He said he knew either Deputy [redacted] or [redacted] or both, left to retrieve a Taser from Sergeant [redacted] vehicle which was parked in front of the apartment complex while they again knocked on the Suspect's door. He said he had his weapon drawn while they knocked on the door.

IAB Note: Deputy [redacted] did attempt to retrieve a Taser from the Sergeant's vehicle, but was unsuccessful.

Deputy Ramirez said, "So anyhow, now we're in the process, okay, what are we gonna do? We gonna kick down the door? Are we just gonna continue to knock? And I don't remember who, someone said, 'Hey, let's talk about the dog,' you know, and said, 'Let's just say we're gonna bring in the dog unless you open up the door.' So that's what we did. We said, 'Sheriff's Department. Unless you open up the door now, we're gonna send in a dog.' So at that point I remember, the way it's set up, Deputy Molina was directly in front of me, we're facing the door, which is, you know, when we're facing the door we're facing south. Molina's on the west side of the door. I'm on the east side of the door. And there's somebody to the right of me. I don't - - I could have sworn it was Deputy [redacted] but, that's who I think it was. And I know the Sarg was also behind me. I start hearing clinking sound, clink, clink, clink sounds, like swords, still inside the house. Okay, well there's definitely somebody inside there. So I just said, 'Did you hear that? That doesn't sound good,' I just remember saying that. And within seconds, you know, the door, you know, maybe like one, two, seconds, it was real quick, clink, clink, clink, did you hear that. The door starts to open. When the door opens, you know, there's a male white, he's got two meat cleavers, you know, one in each hand, and not your average size meat cleavers, they're huge. Again, Molina is on the west side, so - - at that point I'm already in fear for my life, you know, the whole thing was too close for comfort. But what kept me from, from shooting at that point was the fact the way my partner and I were set up, that if we shoot, I might trigger some kind of contagious fire because of the close proximity."

Deputy Ramirez said he told the Suspect to "Go back inside. Go back inside." But, the Suspect did not comply. He said Deputy Molina was on the other side of the door from him and there was a cross fire situation. He said he and the personnel behind him backed down the stairs and he quickly learned Deputy Molina retreated to the west and down the west stairway. He said he back down the stairs while still covering the Suspect with his weapon, stopping on a landing halfway down the stairs.

IAB Note: The stairs travel down east to a midpoint landing and then continue down in a westerly direction to a ground level walkway and court yard. See Exhibit "B" for crime scene photos for further information.

Deputy Ramirez said, "I made myself like I'm not going any, anywhere further than this, or I'm not going back anymore. The suspect is approaching the staircase from the top. The very first step. And I just remember yelling out Molina's name, 'Molina, Molina, where are you?' And she says, 'I'm okay, sir. I'm right behind you. I'm okay.' I'm still during this time telling him, 'Just go back inside your house. Go back inside your house'. 'No. No. Come on, come on. You're gonna have to kill me,' he says."

Deputy Ramirez said he remained on the midpoint landing because if he continued down the stairs, he felt, the Suspect could easily hit him with a meat cleaver as he passed under the Suspect. He said, "Because the way it was set up, I was afraid that he could just take the frickin' meat cleaver and slam it right over my head or hit me right over, you know, the way the staircase wraps around, that was, that was a death trap."

Deputy Ramirez said the suspect was yelling at them while shaking the meat cleavers. He said, "Well, his - - both of the meat cleavers, they're like at waist level and then he would just - - he didn't like, when he was motioning, wouldn't pick them all the way up, he would just, you know, at around waist and chest level, he would just like, 'Come on, come on,' shake 'em. And he would still clink 'em. Clink, clink. Like that noise it's very, like, that's one thing that I won't, I won't forget about. I just remember he slightly looks over the rail at someone, I don't know who was - - which is to his right, 'cause he's facing east, he looks south towards somebody, and then I just remember."

Deputy Ramirez said a resident from the apartment across from the Suspect's apartment, exited his apartment. He said, "Well, before - - when I got to the platform, I remember while he was advancing there was somebody that lived right across from him, comes out, 'Take care of him, he's a good guy.' And I just remember yelling at him, 'Go back inside your house. Go back inside. Close your door.' And that was it there. After the shooting, I remember him coming back out again and saying something, you know, again, 'Take care of him, he's a good guy. He's been through some rough times.' That's about all I remember."

Deputy Ramirez said he heard Sergeant [redacted] order, "Tase him." He said, "He was saying, "Tase him, Tase him, Tase him," and I - - you know, I didn't have a Taser, so I just remember somebody saying, "I don't have a Taser."

Deputy Ramirez said at this point he was thinking he would have to shoot the Suspect if he made an assaultive movement. He said, "And then I just remember thinking to myself if he, at that point if he motions, if he picks up - - 'cause he looked that way, if he even picks up the arm, like I had already made the decision, you know, he's gonna get capped, or I'm gonna shoot him. And he looks over at me, again, this is going really, really fast, but he looks over at me and I just saw his eyes like open up, like wide, as wide as can be, and I just said 'that's not good,' and I saw him start to pick up his arms, I was like no, and that's when I shot a shot, and there was a second shot, it was simultaneous, like boom, boom. It was almost in sync. I felt that he was gonna throw that meat cleaver at someone, either me or somebody on the side, but since his eyes were focused on me, he was gonna throw it at me."

Deputy Ramirez said he knew his backdrop were apartments and he was in fear that the Suspect was about to throw the meat cleavers at him or someone in the courtyard. He said, "And again, I was - - the whole time I'm already in fear for my life, and my partner's. When I shot him, or when - - after the gunfire, I just remember the meat cleavers falling. It was boom, boom, and meat cleavers fall, clink, clink. I could hear

them fall. That was the threat was the meat cleavers. I just remember the meat cleavers fell, he falls on his back or on his chest, I'm not sure. I remember Deputy [redacted] we both again met up at the platform, went up, and."

Deputy Ramirez said he and Deputy [redacted] approached the Suspect while still covering him with their weapons. He said, "Correct, we're still covering him. He had one meat cleaver next to one of his hands; I kicked it out the way. And we held him. That's it. I had other deputies - - the door was open - - go in, clear out, make sure there was nobody else inside the house. And we had Fire come and, you know, rescue, whatever they have to do."

Deputy Ramirez said he was aiming for the Suspect's torso. He said, as quoted from his IAB transcribed interview:

Bly: And when you fired, what were you firing at?

Ramirez: Well, I was aiming at his torso area. Again, I was just trying to eliminate the threat, which was, you know, those meat cleavers, that's it.

Bly: And when you were on the landing, he was up above you, and you were covering him, did you have your sights on him all the time, or was it your covering him, looking at him, get - -

Ramirez: I'm covering him and I also have a laser on my Beretta.

Bly: Oh, did you use the laser then?

Ramirez: I wanna say I did, but I'm not sure. I don't remember. I probably didn't because he was - - it was so close and I don't remember seeing the red dot when I did fire.

Bly: Now when you did fire, was it something where you kind of - - you said it was close, so did you kind of like point and shoot, or did you actually pick up your sights?

Ramirez: No, I just pointed and shot.

Bly: And you were aiming for center mass?

Ramirez: Correct.

Deputy Ramirez said he knew Deputy [redacted] had a ride-a-long with him. Deputy Ramirez said the ride-a-long did not approach the Suspect's door with the deputies.

Deputy Ramirez said after he thought the Suspect may be in his apartment, he did not request Aero to respond back to the call. He said, "That he was up in the room? I didn't know - - we never knew for a fact he was in there. You know, what I was thinking that it was just gonna be a report call. That's what I thought, it's just gonna be a named suspect, you know, we don't chase named suspects, so, we just do a report and it's done. However, I don't know if Aero had something else going on during the incident. I don't know what was going on with - - because I felt like kind of like I was being rushed by them, like, 'Okay, what do you have going on? What do you have going on?' I was like, "I don't know, let me, - -" you know, we're only as good as the call, what the call says, you know, until I get there and know what's going on, then I can put out further. And again, you know, the informant was kind of hysterical with the situation, what's going on. So I didn't wanna be there by myself. I know I wasn't - - I wasn't gonna go do a door knock by myself, obviously that's very unsafe, so I waited until I had another unit and I was comfortable with who I had, and I said, 'Okay, well, you know, I got another unit, sir, if you wanna go ahead, you know, we'll be Code 4 here, I got another unit.' I remember putting out Code 4, 'Hey, we'll be Code 4 here, I have another unit with me.' 'Cause if the guy is inside, if, if the dude did run, he's gonna be long gone and set up a containment, and based what she said, that's why I didn't, you know, start bringing in units and setting up a perimeter. So - - and also because the call said, you know, informant believes that may be in his apartment, or something like that. So based on that, there's nothing to set up."

Deputy Ramirez said from the time the Suspect opened his door until he shot was very quick. He said, as quoted from his IAB transcribed interview:

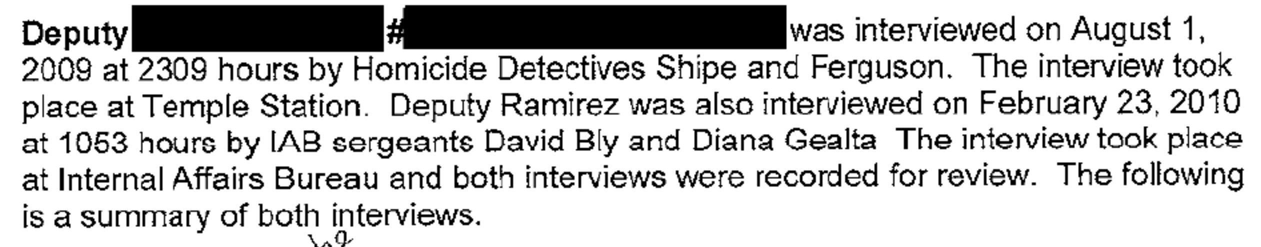
Bly: And from the time that the guy opened the door and you saw the meat cleavers until he got shot or until you shot, how much time passed do you think?

Ramirez: It was seconds. I don't know, maybe like, I'd say about five seconds at most, maybe. Five seconds, six seconds.

Bly: So it was just he opened up, you guys backed out, tell him to get back in, he's saying no, he raised it up.

Ramirez: Right.

IAB Note: See Deputy Ramirez' transcribed interviews for further information.



Deputy [redacted] **#**[redacted] was interviewed on August 1, 2009 at 2309 hours by Homicide Detectives Shipe and Ferguson. The interview took place at Temple Station. Deputy Ramirez was also interviewed on February 23, 2010 at 1053 hours by IAB sergeants David Bly and Diana Gealta The interview took place at Internal Affairs Bureau and both interviews were recorded for review. The following is a summary of both interviews.

Deputy [redacted] said was working as unit [redacted] shift, and his [redacted] was with him as a ride-a-long. He said he was a "no call' car and he was assigned to the Station's [redacted] He said the shift was rather slow and he was en route to the Station to end his shift when he heard a call that he thought he could assist with. He said, "I had just finished up citing out someone I had been looking for quite some time, caught him in the trailer park, he had a misdemeanor warrant. I cited him out, which took me a little bit past my time to get off. And I started heading up north on Rosemead to go home, or, you know, to go back to the station, and I heard the call of a - - well, I didn't hear all the call, I remember hearing that they were going to talk to a burglary suspect, and I thought I could go help out, maybe be a containment unit on that, because if they got a suspect they know they're gonna contact, that could always turn into a containment situation, or, or something, so I figured I'd go assist them in that."

Deputy [redacted] said he heard Deputy Ramirez talking to Aero on the radio. He said, "I heard some of the call. I didn't catch all of the details of the call. I heard, I believe it was Ramirez talking to Aero telling Aero to 22 the call. They had a named suspect that was in the area of the complex. I'm not sure if it was an apartment or a house or whatever. And I'm like, thinking to myself, if they got a suspect they hadn't contacted yet on a 459, I'm going to roll over that, maybe be outer containment in case the guy runs or whatever, just be an extra body there."

Deputy [redacted] said he did not talk to the handling unit (Deputy Ramirez) over the radio and he was 30 seconds away from the location of the call. He said he saw sheriff vehicles parked in front of the apartment complex. He said he and his [redacted] entered the complex and contacted Deputy Ramirez. He said, "He was basically - - he was talking to the victim so I was just kind of listening to him and the victim at the same time I kind of started talking to the victim myself to see what, what had occurred. So, you know, if it was something that they didn't need my help with, you know, I was trying to get off duty so I was gonna bail, but if it was something that - - I heard something about a suspect, so they we're talking to the victim, she was telling that her neighbor was in her house when she came home from shopping, and they had a confrontation in the house, the details of that, I don't recall, and that he was upstairs in his apartment."

Deputy [redacted] said Deputies [redacted] and Molina were also present and they were going to attempt to contact the Suspect. He said they planned to knock on the Suspect's door, but they did not assign duties between themselves. He said as quoted from his IAB transcribed interview:

Bly: Was there any talk between you guys about someone to have a Taser, or someone, you know, you be an OC person, I'll be Taser, or any talk like that?

[redacted] Yes, there was. Initially we had knocked on the door, you know, regular knock on the door, no answer at the door. By that time the sergeant had arrived, Sergeant [redacted] had arrived, and the handling Deputy Ramirez started talking to [redacted] kind of explaining what we had, or what was going on. At that point - - I don't know exactly what they were discussing, but I suggested going and getting a Taser. We had - -

Bly: So that was after the first door knocks.

[redacted] That was after the one downstairs, yes. After the door knock downstairs - - oh, I'm sorry, after talking to the victim, go upstairs, and like I said, I believe we knocked on the door, just a regular, you know, knock on the door, see if we get an answer, uh, no answer at the door.

Bly: Did you hear anything inside?

[redacted] No, I did not.

Bly: Okay.

[redacted] I didn't hear anything. And at this point I haven't talked to anybody else, or the victim or anything about had anybody actually seen him go in there. That part I didn't, I didn't know. I found out afterwards, but as far as what I knew at that time, I didn't have any knowledge of that. So when I had backed out - - or not backed out, you know, kind of stepped away from where the door was, the sergeant was coming up the stairs. And Ramirez and the sergeant were talking and I kind of, you know, while I got time here, "Hey, do you want - - does anybody have a Taser?" Sarg said he had one in his car. "Okay. I'm gonna go get it, where's at it?" "It's in the center." Okay, he meant it was - - in it's proper place, was in the back of the sergeant's car on the pull-out drawer in the center. That's what - -

Gealta: Center drawer?

[redacted] Yeah, that's what he meant, 'cause that's where it should have been. I was thinking center, center console.

Bly: So you didn't have a Taser with you?

[redacted] No, I didn't. I don't carry a Taser.

Bly: Why is that?

[redacted] Don't have one issued and they're kind of short on Tasers at Temple Station, so I figured the patrol deputies can check those out.

Bly: The regular patrol deputies?

[redacted] Yeah.

Bly: And obviously no one else had a Taser, right?

[redacted] To my knowledge, no. No one else answered up when I suggested to go get a Taser. I think later I learned that Deputy [redacted] had one in his car.

Deputy [redacted] said he left to retrieve the Taser from Sergeant [redacted] vehicle. He said his [redacted] remained in the ground level courtyard. He said, "He never came upstairs, I had him stay down in the little courtyard area. Down, you know, there's the victim's, uh, residence is downstairs, you kind of go east around and there's a little courtyard area, then you go up the stairs. I believe I told him to wait down there, 'cause I'm not gonna bring a ride-along where there's possible, any confrontation until we get in there and make sure it's, you know, Code 4. We don't know what we have yet. He remained there while I went out to the sergeant's car and retrieved the Taser."

Deputy [redacted] said he walked out to the front of the complex and searched the center console of Sergeant [redacted] vehicle for a Taser. Before he could search for the Taser, Deputy [redacted] said he heard Sergeant over "direct" say, "We need you up here now."

Deputy [redacted] said, "I'm thinking tactically as I walk out, you know, keep the gate open 'cause I know these gates close and all that, I'm always - - any time I got someone by a gate, 'Hey, can you hold the gate open for me so I can get back in this place.' I get out to the middle of the street, I'm dead center in the street and I hear, 'We need you up here now.' And I believe it was a sergeant, it was over direct. And my immediate response was to turn around, and then I, I go 'you know what, they probably want the Taser,' so I made another turn back to the car, so I'm doing like a circle in the street. I run to his car, open the door, and I'm just rifling through the center console looking for this Taser where I thought in the center console, where I'm looking in the wrong place. 'We need you up here now,' I hear it again on direct. I'm thinking, you know what, they're in a fight. They're in a fight, they're probably trying to control this guy, so I'm gonna go up there and help control this guy. So I run, I hear, '10-33 go,' from Dispatch, but didn't go over the patch, so I don't know what's going on, but I knew it was a heard 10-33. I'm running back, can't say I had my radio, my radio had popped

off my, my coat right here and just kind of popped off, and I'm trying to catch it as I'm running. I told the lady there, 'Open all the gates,' and I said there, 'There's gonna be deputies coming in here, direct them in to where we at,' because I'm thinking the calvary coming when they hear 10-33."

Deputy [redacted] said he ran back to the courtyard area and believed he passed Deputy [redacted] who was en route to the front of the complex. He said, "I think he ran past me - - I don't recall if this is true or not, but I just had this, I remember him saying - - I thought he said he was gonna go get a Taser, or he was going to his car. Or something. He had ran past me when I was saying 'I can't find the Taser, I don't know have a Taser,' I think he took off to get one. I remember him I think at some point passing me here."

Deputy [redacted] said, "I go through the little breeze way past where the victim's thing is and I see the sergeant had come running down the stairs and, you know, his eyes looked huge, and he's all, 'Tase him,' you know, 'Tase that - -' excuse my language, 'Tase that motherfucker, now, Tase him.' And I'm like, 'I couldn't find - -' I'm looking directly at him, I hadn't, you know, I didn't even look up at what the scenario was, I - - 'cause he's, you know, he's got his eyes this big, I wanted to make it clear to him 'I don't have the Taser, I couldn't find the Taser, I couldn't find it.' And then I look up, I see this guy just working these meat cleavers, and he was, at this point right above my head."

Deputy [redacted] said Sergeant [redacted] was on the ground level, in front of the stairs and he followed Sergeant [redacted] into the courtyard area. He said, "As I get to about right at this point here, I don't know if he was backing up because I was coming at him, or he was already backing up anyway, I was following him, I don't know how that played out, but I remember him point upstairs, you could see the suspect, and he was pointing, yelling, "Tase him. Tase him now." I had stepped out to this area, and I am - - and this suspect is now, he's standing - - this is a cat walk, he's standing right about here where this number four is."

IAB Note: See Exhibit "D" for a crime scene diagram with Deputy [redacted] notations on it.

Deputy [redacted] said he moved out to the courtyard area near a tree and looked up to the upstairs landing and Suspect. He said, "I look up and again, he's working those blades, and they're - - that sound of the metal on metal, uh, it was like, my instant reaction was wow, I pull out my gun and I got my flashlight, I remember doing the old flashlight thing, I'm moving it back to back, something like this." He said he believed Sergeant [redacted] was to his left and behind him and he did not see any civilians in the courtyard or near the Suspect.

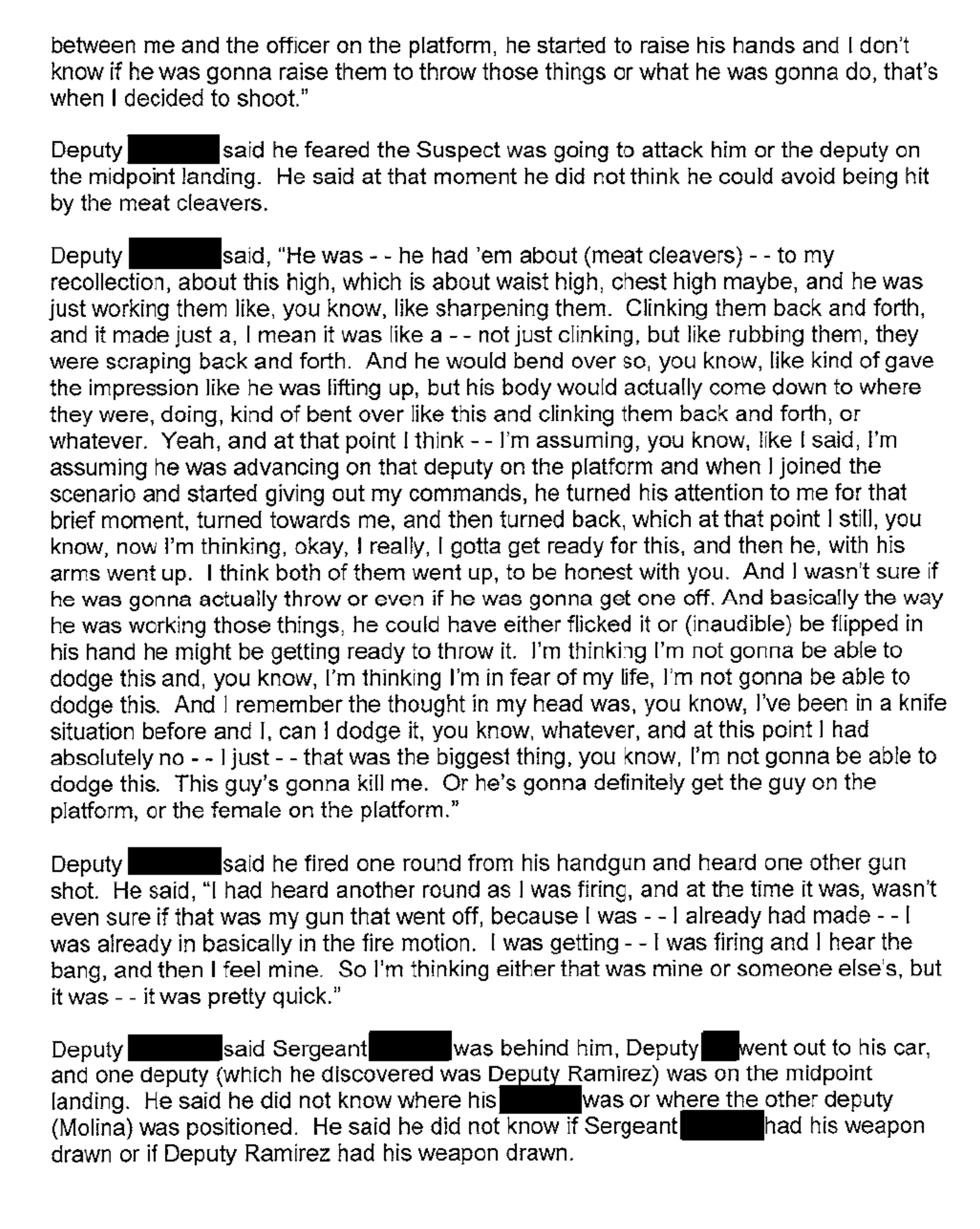
Deputy [redacted] said he pointed his handgun at the Suspect and braced his gun hand with left hand while holding his flashlight (resting his gun hand on top of his left wrist). He said, "So I got my flashlight with me and I'm like this, and I'm like, you know, now I'm starting to realize there's a door back here behind the suspect and he's working these

knives, and I'm thinking this may be a shoot scenario, I mean no joke, that's kind of like what was in his head, is like this may be it. I threw my flashlight down because now my focus is centering on him, I've giving him commands, 'Drop the knives, drop the knives,' I don't know how many times I gave that command."

Deputy [redacted] said, "I'm covering him and I'm kind of backing up a little 'cause I didn't know where my [redacted] was. I thought my [redacted] my ride-along was somewhere behind me where I had left him, and I didn't have a chance to see that, so I was kind of backing up, I believe I'm backing towards the tree somewhere, you know, I don't know if I am stepping on, you know, roots or whatever, so I'm kind of, like my footing's like, all right, that's as far as I can back up, I would estimate maybe five to six feet from when I first saw him and kind of to the side, I don't know if I backed directly up."

Deputy [redacted] said he focused on the Suspect. He said, "So I'm looking up and I remember thinking, okay, you know, I've been in this scenario before, I was almost shot, you know, first thing I wanna make sure I'm not gonna shoot behind this guy and go into apartments and whatnot. So then my angle's like, okay, I'm aiming where they teach us to aim, the center mass, you know, and I'm really focused on my front and sights and I'm, I kept the back drop kind of in my peripheral. It was a door, you know, I'm assuming behind it was the door leading to apartments. I'm assuming that my back drop is an apartment and I'm assuming it's occupied because, you know, I don't wanna shoot into something that I don't know. At that point he looks right at me and he's working those knives and he said, started saying, you know, I could hear him yelling, 'Shoot me. You're gonna have to kill me.' You know, 'Just shoot me. I'm gonna kill you.' I don't know if he said he was gonna kill me, 'You're gonna have to kill me,' is what he said. 'Shoot me, You're gonna have to kill me,' or, 'I'll kill you,' or something like that. There was just a lot of that going on."

Deputy [redacted] said the Suspect was looking at him and a deputy on the midpoint landing, who he first thought was Deputy Molina. He said, "He was yelling very loud. I remember his eyes. His eyes were bigger than the Sergeant's and he, almost like he was - - I mean it was almost like an Academy scenario where they're trying to overdo it, you know, they're gritting the teeth, aaggh, like that, so he's looking down and he - - I think he was advancing on the officer that was on the platform right here, and I don't who the officer was at the time. I do now know who it was. I thought it was the female officer, and - - which was Molina. I saw a deputy on the platform, on the landing that's half way up and half way down, depending on, you know, glass full, glass empty. So he's right there, and - - but again, I'll referring to it as Molina, 'cause I thought it was Molina at the time, and I didn't wanna take my eyes off the suspect, because his movements were too rapid and with the proficiency he was showing with those knives, I didn't wanna get one stuck in my head and - - so once I got to the point where I was, you know, now focusing on him, he drew his attention to me, kind of took like, like I don't know if it was a half step or whatever, he was facing me, he kind of stood - - after he said, you know, 'You're gonna have to kill me' and all this stuff, and looked at me and kind of took - - he kind of stood up, kind of a pivot step back, so now he's facing



between me and the officer on the platform, he started to raise his hands and I don't know if he was gonna raise them to throw those things or what he was gonna do, that's when I decided to shoot."

Deputy [redacted] said he feared the Suspect was going to attack him or the deputy on the midpoint landing. He said at that moment he did not think he could avoid being hit by the meat cleavers.

Deputy [redacted] said, "He was - - he had 'em about (meat cleavers) - - to my recollection, about this high, which is about waist high, chest high maybe, and he was just working them like, you know, like sharpening them. Clinking them back and forth, and it made just a, I mean it was like a - - not just clinking, but like rubbing them, they were scraping back and forth. And he would bend over so, you know, like kind of gave the impression like he was lifting up, but his body would actually come down to where they were, doing, kind of bent over like this and clinking them back and forth, or whatever. Yeah, and at that point I think - - I'm assuming, you know, like I said, I'm assuming he was advancing on that deputy on the platform and when I joined the scenario and started giving out my commands, he turned his attention to me for that brief moment, turned towards me, and then turned back, which at that point I still, you know, now I'm thinking, okay, I really, I gotta get ready for this, and then he, with his arms went up. I think both of them went up, to be honest with you. And I wasn't sure if he was gonna actually throw or even if he was gonna get one off. And basically the way he was working those things, he could have either flicked it or (inaudible) be flipped in his hand he might be getting ready to throw it. I'm thinking I'm not gonna be able to dodge this and, you know, I'm thinking I'm in fear of my life, I'm not gonna be able to dodge this. And I remember the thought in my head was, you know, I've been in a knife situation before and I, can I dodge it, you know, whatever, and at this point I had absolutely no - - I just - - that was the biggest thing, you know, I'm not gonna be able to dodge this. This guy's gonna kill me. Or he's gonna definitely get the guy on the platform, or the female on the platform."

Deputy [redacted] said he fired one round from his handgun and heard one other gun shot. He said, "I had heard another round as I was firing, and at the time it was, wasn't even sure if that was my gun that went off, because I was - - I already had made - - I was already in basically in the fire motion. I was getting - - I was firing and I hear the bang, and then I feel mine. So I'm thinking either that was mine or someone else's, but it was - - it was pretty quick."

Deputy [redacted] said Sergeant [redacted] was behind him, Deputy [redacted] went out to his car, and one deputy (which he discovered was Deputy Ramirez) was on the midpoint landing. He said he did not know where his [redacted] was or where the other deputy (Molina) was positioned. He said he did not know if Sergeant [redacted] had his weapon drawn or if Deputy Ramirez had his weapon drawn.

Deputy [redacted] said he used his front sight when he fired. He said, "I had front sight the whole time and just center mass. Because it was - - I was concerned about that apartment behind it. And I didn't want - - and at least with my angle, I figured if it did go into the apartment, it's gonna, it's gonna be a high angle. As soon as I shot, he dropped. I don't know if he dropped the knives, but he dropped fast. As soon as I shot, he went down. And soon as he went down, I advanced up the stairs keeping my gun out pointing it on him the whole time. As I'm going up the stairs, I'm shoulder to shoulder with Ramirez. That's when I realized it was him. And I asked him, 'Are you all right? Did he get any of the knives off?' And, you know, first I asked if he was hit, you know, 'cause I was thinking, you know, if he's hit, 'Are you hit? Are you hurt?' He's all, 'No.' I said, 'Okay, did he get any of the knives off?' He's, 'I don't think so.' We get up, we're holding him at gunpoint, I believe I saw the one and I, like I said, I know there's two, I know there was two, but I saw the one, I think the other one was - - is both sides, one on each side of where his feet were at."

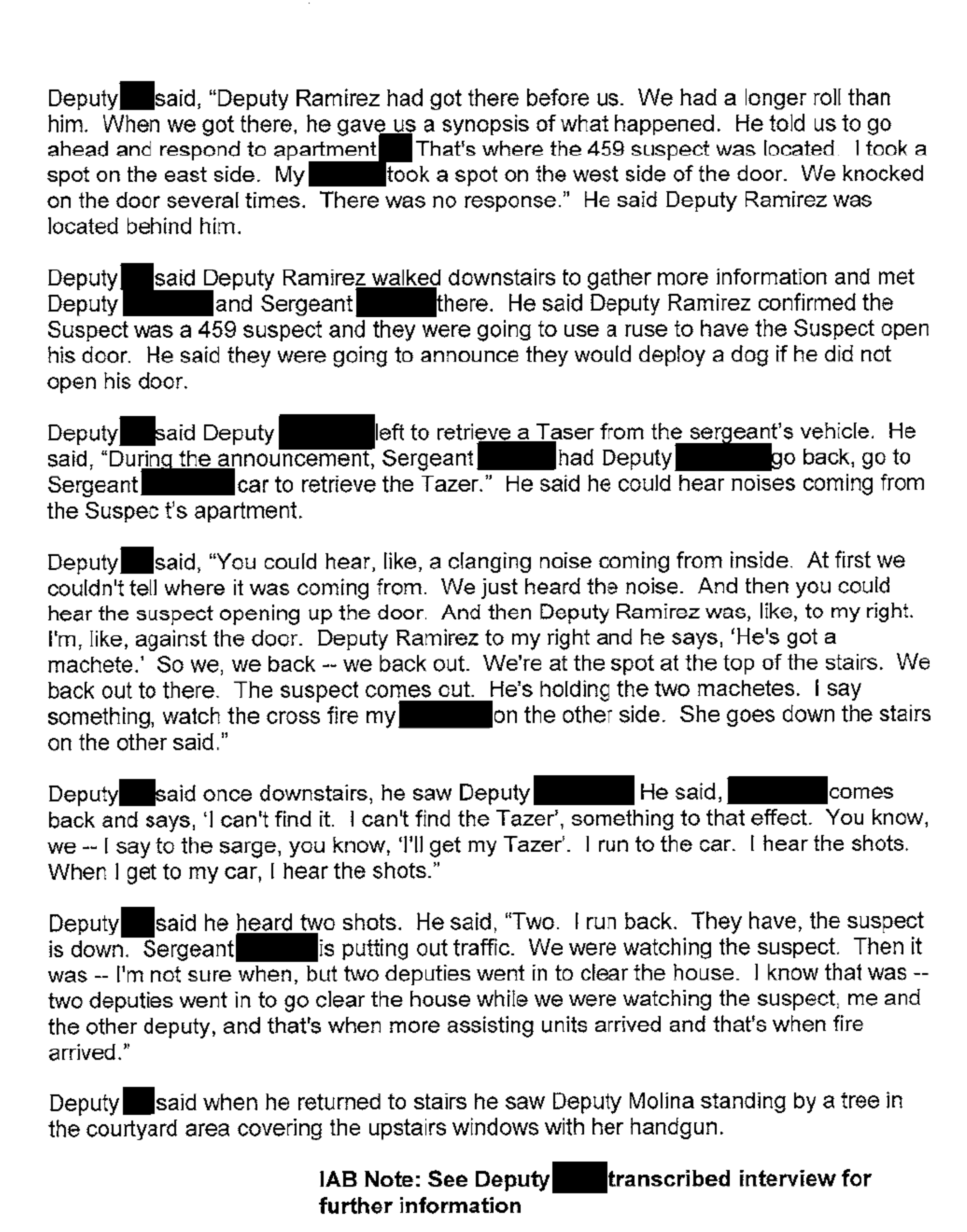
Deputy [redacted] said he heard Deputy Ramirez say they needed "902R" and he heard someone request for Fire/Rescue to respond. He said he cleared the Suspect apartment for a safety sweep and saw paramedics had arrived. He said, "I stepped over him, or to the side of him, we went in - - it was me, I believe the sergeant, and Deputy Shane went in, cleared the residence, and when we came out, 902R had, the paramedics had just gotten there and were starting to work the guy. And I think, when I went to clear out of the area to get down out of their way, there was another guy come out of his apartment before we left, I wanna say it's an apartment somewhere over here, across the hall, right here. He had come out of his apartment and said, 'Are you guys getting this guy help?' I said, 'Yeah. Paramedics are right there.' I said, 'Is anybody - - did any shots come into your apartment? Is everybody okay in your apartment?' He goes, 'Yeah.' I said, 'Can we come in and check?' And he didn't want us to come in there and check, for whatever reason. 'Everybody's fine in here.' I said, 'Okay.'"

IAB Note: See Deputy [redacted] transcribed interviews for further information.

SWORN WITNESS STATEMENTS

Deputy [redacted] #[redacted] was interviewed on August 1, 2009 at 2229 hours by Homicide Detectives Shipe and Ferguson. IAB Sergeant David Bly was also present during the interview. The interview took place at Temple Station and was recorded for review. The following is a summary of that interview.

Deputy [redacted] said he was working unit [redacted] with his [redacted] Deputy Rocio Molina. He said Deputy Molina was in [redacted] and he was the [redacted] He said they responded to [redacted] Ramona regarding a 459JO, possible 602 call. He said Deputy Ramirez had the handle on the call. He said they met Deputy Ramirez and all three of them responded to Suspect Gross' apartment.



Deputy [redacted] said, "Deputy Ramirez had got there before us. We had a longer roll than him. When we got there, he gave us a synopsis of what happened. He told us to go ahead and respond to apartment [redacted] That's where the 459 suspect was located. I took a spot on the east side. My [redacted] took a spot on the west side of the door. We knocked on the door several times. There was no response." He said Deputy Ramirez was located behind him.

Deputy [redacted] said Deputy Ramirez walked downstairs to gather more information and met Deputy [redacted] and Sergeant [redacted] there. He said Deputy Ramirez confirmed the Suspect was a 459 suspect and they were going to use a ruse to have the Suspect open his door. He said they were going to announce they would deploy a dog if he did not open his door.

Deputy [redacted] said Deputy [redacted] left to retrieve a Taser from the sergeant's vehicle. He said, "During the announcement, Sergeant [redacted] had Deputy [redacted] go back, go to Sergeant [redacted] car to retrieve the Tazer." He said he could hear noises coming from the Suspec t's apartment.

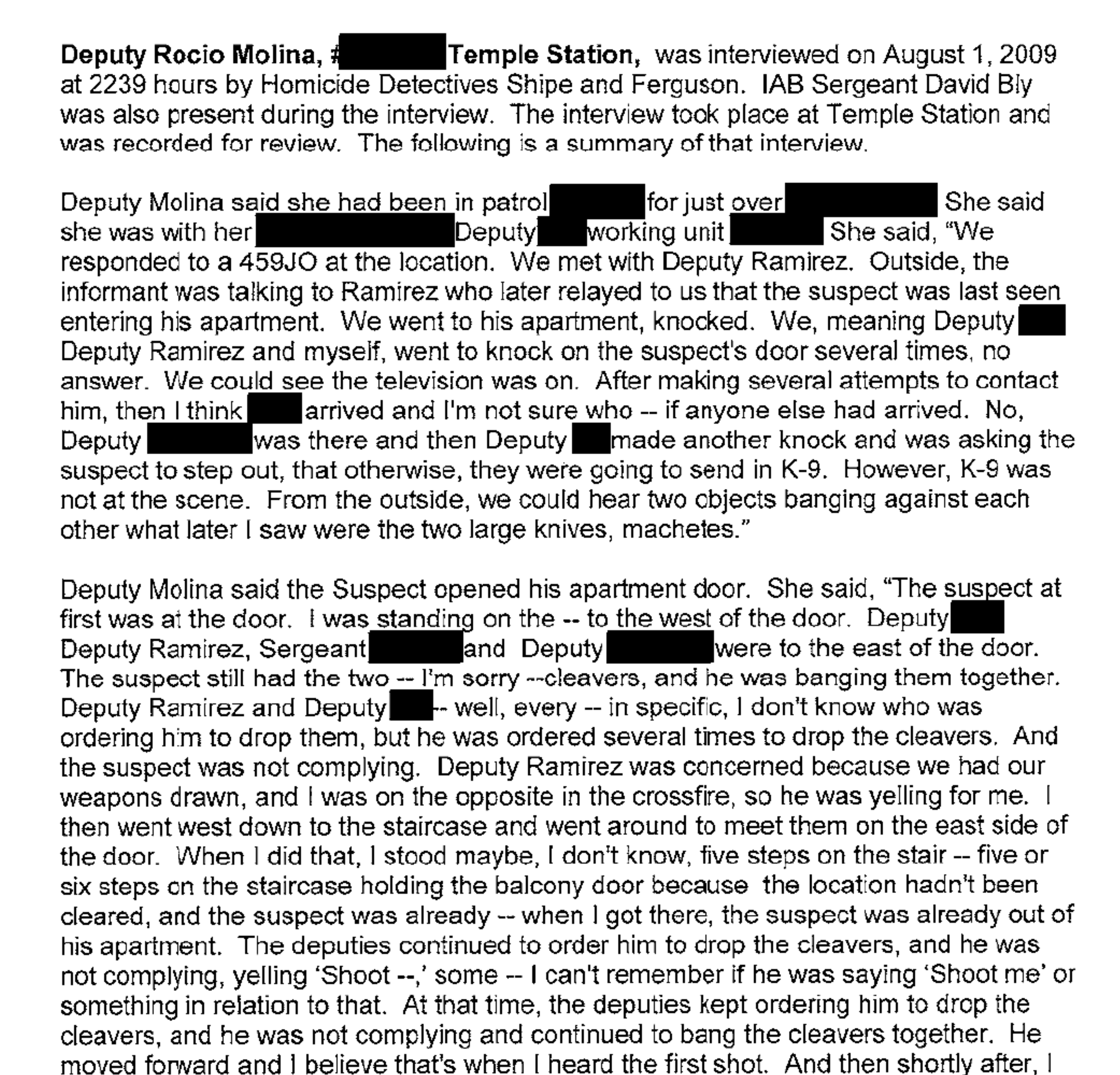
Deputy [redacted] said, "You could hear, like, a clanging noise coming from inside. At first we couldn't tell where it was coming from. We just heard the noise. And then you could hear the suspect opening up the door. And then Deputy Ramirez was, like, to my right. I'm, like, against the door. Deputy Ramirez to my right and he says, 'He's got a machete.' So we, we back -- we back out. We're at the spot at the top of the stairs. We back out to there. The suspect comes out. He's holding the two machetes. I say something, watch the cross fire my [redacted] on the other side. She goes down the stairs on the other said."

Deputy [redacted] said once downstairs, he saw Deputy [redacted] He said, [redacted] comes back and says, 'I can't find it. I can't find the Tazer', something to that effect. You know, we -- I say to the sarge, you know, 'I'll get my Tazer'. I run to the car. I hear the shots. When I get to my car, I hear the shots."

Deputy [redacted] said he heard two shots. He said, "Two. I run back. They have, the suspect is down. Sergeant [redacted] is putting out traffic. We were watching the suspect. Then it was -- I'm not sure when, but two deputies went in to clear the house. I know that was -- two deputies went in to go clear the house while we were watching the suspect, me and the other deputy, and that's when more assisting units arrived and that's when fire arrived."

Deputy [redacted] said when he returned to stairs he saw Deputy Molina standing by a tree in the courtyard area covering the upstairs windows with her handgun.

IAB Note: See Deputy [redacted] transcribed interview for further information



Deputy Rocio Molina, #[redacted] Temple Station, was interviewed on August 1, 2009 at 2239 hours by Homicide Detectives Shipe and Ferguson. IAB Sergeant David Bly was also present during the interview. The interview took place at Temple Station and was recorded for review. The following is a summary of that interview.

Deputy Molina said she had been in patrol [redacted] for just over [redacted] She said she was with her [redacted] Deputy [redacted] working unit [redacted] She said, "We responded to a 459JO at the location. We met with Deputy Ramirez. Outside, the informant was talking to Ramirez who later relayed to us that the suspect was last seen entering his apartment. We went to his apartment, knocked. We, meaning Deputy [redacted] Deputy Ramirez and myself, went to knock on the suspect's door several times, no answer. We could see the television was on. After making several attempts to contact him, then I think [redacted] arrived and I'm not sure who -- if anyone else had arrived. No, Deputy [redacted] was there and then Deputy [redacted] made another knock and was asking the suspect to step out, that otherwise, they were going to send in K-9. However, K-9 was not at the scene. From the outside, we could hear two objects banging against each other what later I saw were the two large knives, machetes."

Deputy Molina said the Suspect opened his apartment door. She said, "The suspect at first was at the door. I was standing on the -- to the west of the door. Deputy [redacted] Deputy Ramirez, Sergeant [redacted] and Deputy [redacted] were to the east of the door. The suspect still had the two -- I'm sorry --cleavers, and he was banging them together. Deputy Ramirez and Deputy [redacted] -- well, every -- in specific, I don't know who was ordering him to drop them, but he was ordered several times to drop the cleavers. And the suspect was not complying. Deputy Ramirez was concerned because we had our weapons drawn, and I was on the opposite in the crossfire, so he was yelling for me. I then went west down to the staircase and went around to meet them on the east side of the door. When I did that, I stood maybe, I don't know, five steps on the stair -- five or six steps on the staircase holding the balcony door because the location hadn't been cleared, and the suspect was already -- when I got there, the suspect was already out of his apartment. The deputies continued to order him to drop the cleavers, and he was not complying, yelling 'Shoot --,' some -- I can't remember if he was saying 'Shoot me' or something in relation to that. At that time, the deputies kept ordering him to drop the cleavers, and he was not complying and continued to bang the cleavers together. He moved forward and I believe that's when I heard the first shot. And then shortly after, I heard the second shot. The suspect went down and I remained -- attempted to get up, but was unable to and was ordered to stay down. The suspect kept moving. At that point, he had already dropped the cleavers, but they were still close to him. So at that point, Sergeant [redacted] was on the radio requesting units/backup and 902R, and advising 998."

Deputy Molina said she covered the Suspect while deputies cleared the Suspect's apartment. She said, "Once the suspect was down, I went -- I was no longer -- I went out of -- I exited the apartment complex and that was it. I don't know -- I didn't -- I'm sorry. Let me retrack. I -- when the suspect was down and there was additional units there, Sergeant [redacted] and Deputy Shane, and I'm not sure if there's another deputy who cleared the location while I held the suspect still at gunpoint. And then I was -- after that, I don't -- I think I was relieved by Deputy [redacted] or -- oh, I was advised that 902R was there and to go meet them to escort them to where the suspect was at. So I ran out towards the street and they were already coming." She said she escorted fire to the Suspect's location.

IAB Note: See Deputy Molina's transcribed interview for further information

Sergeant [redacted] **#**[redacted] was interviewed on August 1, 2009 at 2215 hours by Homicide Detectives Shipe and Ferguson. IAB Sergeant David Bly was also present during the interview. The interview took place at Temple Station and was recorded for review. The following is a summary of that interview.

Sergeant [redacted] said he was working as a [redacted] when he was monitoring calls for service. He said, "I monitored a call of a possible 459 JO 602, a trespassing call, and I was at Rosemead's Sub and I was listening on L-tac about there might be a suspect in the location, then Aero was in route, then they canceled Aero. So I said I better head that way because there might be a suspect in the location. So I started heading that way. I got there, met with Deputy Torres, Miguel, (Ramirez) out front, and he told me what they basically had in terms of they had a female who said that she went inside her apartment, and a male, who she knew as a resident of the apartment complex, who lived upstairs, when she walked in, he was inside. And she -- I guess she surprised him and he exited the house or exited the apartment. So she pointed out the apartment. At the time, I don't think they had a name on the guy, or maybe they had a first name. He wasn't fully identified. So I met the deputies upstairs in front of the suspect's apartment. I don't remember the apartment number, but it, but it's upstairs. They told me what they had. They'd been knocking on the door prior to my arrival. They hadn't heard anything, hadn't heard any movement, hadn't had a response from the door."

Sergeant [redacted] said they discussed what they do. He said, "So they asked what they should -- if we could kick it, kick the door. And I said, "Well, why don't we get a taser. Let's consider that." So I sent Deputy [redacted] to the Tahoe to get a taser because I wanted to have a less-lethal out at the door in case we did make an entry. So I sent Deputy [redacted] to the door -- I'm sorry, to the Tahoe, and then they knocked on the door again. I said, 'Just bluff him with a K-9. Say we're going to send a dog in.' And that's when they did that, and that's when we heard a clink, clink, clink. And I didn't know what it was."

Sergeant [redacted] said the Suspect opened and someone said the Suspect had a machete. He said, "I just heard a clink, clink, clink, and it indicated to me somebody was in there. So at that point, the door opened, and one of the deputies said, 'He's got a machete.' And I heard yelling, so I said, 'Okay, let's back up. Let's give him some room, back up.' So we did a bit of a tactical retreat. I started down the stairs."

Sergeant [redacted] said he heard deputies yell orders at the Suspect. He said, "I heard him yelling. I heard the deputy saying, 'Go back in your house; go back in your house' because we wanted to -- my thinking was if he went back in his house, we would just handle it like a regular barricade. It would just -- it would be just like a regular barricade, but he wouldn't go back in. But I did hear the deputies yell, 'Put them down. Put the knives, put them down. Go back in your house. Go back in your house' while we were retreating."

Sergeant [redacted] said they retreated downstairs and Deputy Ramirez stopped and remained on the midpoint landing. He said, "We all went downstairs and kind of parade ourselves around the stairs so we can look up at the walkway up there. At that time, he was -- I could hear him yelling. I couldn't really make out what he was saying. He was clinking these things back and forth. I remember the clinking. I remember him going back and forth, back and forth. And they -- my biggest concern at that point was him throwing those machetes. And he lived on the upstairs -- he lives in an upstairs apartment, and he had a window and a balcony that faced east over us. So I was struggling at that moment to try to find a place for my deputies where I could take cover where we wouldn't have the machetes thrown at us because even if he did retreat to his apartment, he could go out on the balcony and we would still be susceptible to him throwing anything or shooting at us if he went back in the apartment and armed himself. So at that moment, [redacted] comes running back, and I say, 'Go tase that guy.' And he says, 'I don't have the taser. I couldn't find it.' And at that point, Deputy [redacted] pulled out his weapon and I was just coming -- I was standing under the -- standing right underneath the suspect, as a matter of fact, and I came out from underneath the, I guess -- underneath him would be the -- it's covered, though. I came out from underneath the -- where the suspect was standing, and I was turning to the left when I heard two shots, and I look up and he's down."

Sergeant [redacted] said he requested 902R and addtional units to his location. He said, "The suspect is already down. So we make our way back up to the -- where the suspect is, and he's laying on his right side, and he's groaning. I can see blood coming from his chest just like kind of the lower rib cage on his right side. I get on the radio. Advise 998. Ask for 902R. And I'm confirming SCC. Asked for ETA for 902R. I asked for additional unit Code 3 because we still had to do protective sweeps of not only the suspect's apartment, but additional apartments long the way to see where our rounds went."

Sergeant [redacted] said, "As soon as deputies showed up to cover the suspect, then we -- I think it was [redacted] put his foot on the two machetes, either machetes or butcher knives or butcher-block knives, pulled -- used his foot to pull them way out of the suspect's grasp as we advanced past the suspect, went into his residence, cleared it, and then by the time we got out, more deputies had arrived, and paramedics were

there, so they started treating the suspect while we did -- I knocked on Unit Number [redacted]as in [redacted]hecked on the residents there. They were fine. I told them to stay where they were. I didn't talk to them. I just wanted to make sure everybody was okay. Then across from [redacted] I forget what letter that was. I knocked on -- we knocked on the door there. The guy said he was fine. Everything was okay. The only one that didn't get knocked on while we were there was Unit [redacted]as in [redacted] We knocked on the door. There was no answer, and we were tending to the suspect at that time, so."

Sergeant [redacted] further talked about where he was when he saw Deputy [redacted] shoot. He said, as quoted from his transcribed interview:

Shipe: And where were you when the shots rang?

[redacted] I was next to [redacted]probably about two feet away from [redacted] and I was just turning to my left when he fired.

Shipe: So [redacted]was in front of the tree?

[redacted] Yes.

Shipe: So adjacent to the stairs and in front of the tree?

[redacted] Yes. There was a tree there, the stairs, [redacted]was here, and I was a little further west of him.

Shipe: So off to his left?

[redacted] Correct.

Shipe: And you were turning back towards the street for some reason?

[redacted] No, no. I was walking out from cover where I had initially retreated. I had stepped out and I was turning to the left to look up at the suspect, and I was turning to my left, turning to my -- well, it would be north, turning north, that's when the shots fired. Just as I was turning.

Shipe: So you did or did not see the shooting?

[redacted] No. I saw [redacted]fire. I didn't see the suspect's actions prior to the shots being fired.

Shipe: Okay. And you said you're walking towards him from a position of advantage. Where were you at? Were you underneath the stairs or in the hallway or –

[redacted] Underneath the stairs, directly underneath. But it's open, so it overlooks the corridor. I wouldn't call it a position of advantage, but it was --

Shipe: He wouldn't be able to throw a cleaver and hit you?

[redacted] You wouldn't be able to (indiscernible). I mean, that's what I was trying to think, okay, where am I going to put these guys so that we can keep an eye on them, but at the same time have some cover.

Shipe: Okay.

[redacted] I was trying to -- and I wasn't sure if it was that hallway as well because it turns out later on it was a stairwell going down there.

Shipe: And where was Ramirez when he -- if you remember.

[redacted] Ramirez, he was on the landing.

Shipe: Okay. So at the top of the first step -- set of stairs before it turns and goes up to the second story?

[redacted] Yes.

IAB Note: See Sergeant [redacted] transcribed interview for further information

CIVILIAN STATEMENTS

[redacted] was interviewed on August 1, 2009 at 2141 hours by Homicide Detectives Shipe and Ferguson. IAB Sergeant Diana Gealta was also present during the interview. The interview took place at Temple Station and was recorded for review. The following is a summary of that interview.

Ms. [redacted] said she was visiting her [redacted] at their apartment at [redacted] and planned on spending the night. She said she had parked her car in a guest parking space next to her [redacted] parking space. She said she was alone at the apartment for approximately 2-3 hours when she retrieved items from her car and brought them into the apartment. She said, "I guess -- I don't know, about 5:00, I came -- I got my keys. I went to the car. I left my door unlocked because it's usually safe there. My [redacted] have been living there for like three -- about three years, so I was going to leave to my car less than five minutes to get something. And then I was in the car maybe five minutes or roughly. I went to my car at 5 to get some stuff for like five minutes. And then when I came back, I turned on the TV. Less than two minutes, I heard the door from the master room swing open."

Ms. [redacted] said she was lying down on a bed in the livingroom when she heard the bedroom door open. She said, "And then it was swinging open, and I was lying on the bed in the living room watching TV, and I peeked to see who it was. I was like already standing up by the corner of the bed because no one is supposed to be in the house at that time. And then I saw him, and he came closer to me. And I was just on the side of my bed. I was kind of freaked out, and I asked him, I forget, something like,'Oh, what are you doing here?' And then he's like trying to calm me down. He'd go, 'Shh,' and he'd put his hands toward me to calm me down. And I just kind of pushed him back and I ran out of the apartment. I unlocked it, and I ran out to the apartment next door, and I used their....."

Ms. [redacted] said she ran out of the apartment and out of the apartment complex, to the complex next door, located to the west. She said, "I ran out, then I ran toward the gate because there was no other apartment downstairs. To the next complex to -- I was screaming when I ran out to use the -- someone else's phone or something. I was screaming. I was screaming when I was running out. Some people heard me scream, and they were like -- they looked at me, and I asked if I could use the phone and I called 911, 'my [redacted] in my apartment'."

Ms. [redacted] said she has known the person in the apartment as a [redacted] of her [redacted] apartment complex. She said, "Yeah. I saw him a lot of times in the last three years that my [redacted] lived there." But, she said she had not seen the Suspect that day prior to him confronting her in the apartment.

Ms. [redacted] further described he contact with the suspect, as quoted from her transcribed interview:

[redacted] Yeah, I stood up because their room wasn't locked. My [redacted] room was locked. And I just -- I was freaked out. I was stayed at the corner of the bed. I was like what's he doing here, you know.

Shipe: And you asked him, "What are you doing here?"

[redacted] Yeah. I just started yelling, "What are you doing here?"

Shipe: And what did he say?

[redacted] Then he was like, "Oh --." He's making like -- trying to calm me down.

Shipe: You're making a motion with your hand. What --

[redacted] Yeah.

Shipe: Like what was he doing with his hands?

[redacted] He's like, "Oh, calm down, calm down." And then he's, "Shh, calm down, calm down." So I was kind of freaking out.

Shipe: And then you said you pushed him?

[redacted] Um-hum. He tried to calm me down. I pushed him, and then I just ran out.

Shipe: Okay. So did you push him backwards?

[redacted] Um-hum.

Shipe: What was his demeanor? Was he aggressive or --

[redacted] He came toward me. I wouldn't say aggressive because he could have pinned me down if he wanted to attack me or something. When I pushed him back, I didn't look back or anything. I don't think he was coming toward me to like catch me or --

Shipe: Well, basically, you have a stranger in your folks' apartment and he's got no reason for being there --

[redacted] Yeah.

Shipe: -- and nothing that could come from it, so you pushed him and ran because you were scared.

[redacted] Um-hum.

Shipe: Okay. And you ran next door and called 911?

[redacted] Um-hum, the next complex, yeah.

Ms. [redacted] said deputies contacted her and she told them what had happened. She said, "I just told them there's someone in my apartment, and then I just told them the actual -- my [redacted] was in my apartment. Yeah. I said upstairs, and I just told them my [redacted] in my apartment."

Ms. [redacted] said she told deputies where the Suspect's apartment was. She said she waited outside of the complex where she later heard gunshots.

Ms. [redacted] said she knew the Suspect was having problems with his [redacted] and she had heard arguing coming from the Suspect's apartment in the past.

Ms. [redacted] said her [redacted] were victims of a residential burglary a few weeks ago where he [redacted] laptop Mac computer was stolen. She said she does not know if Suspect Gross committed that burglary or not, saying the locks or not very secure and anyone could pick them open.

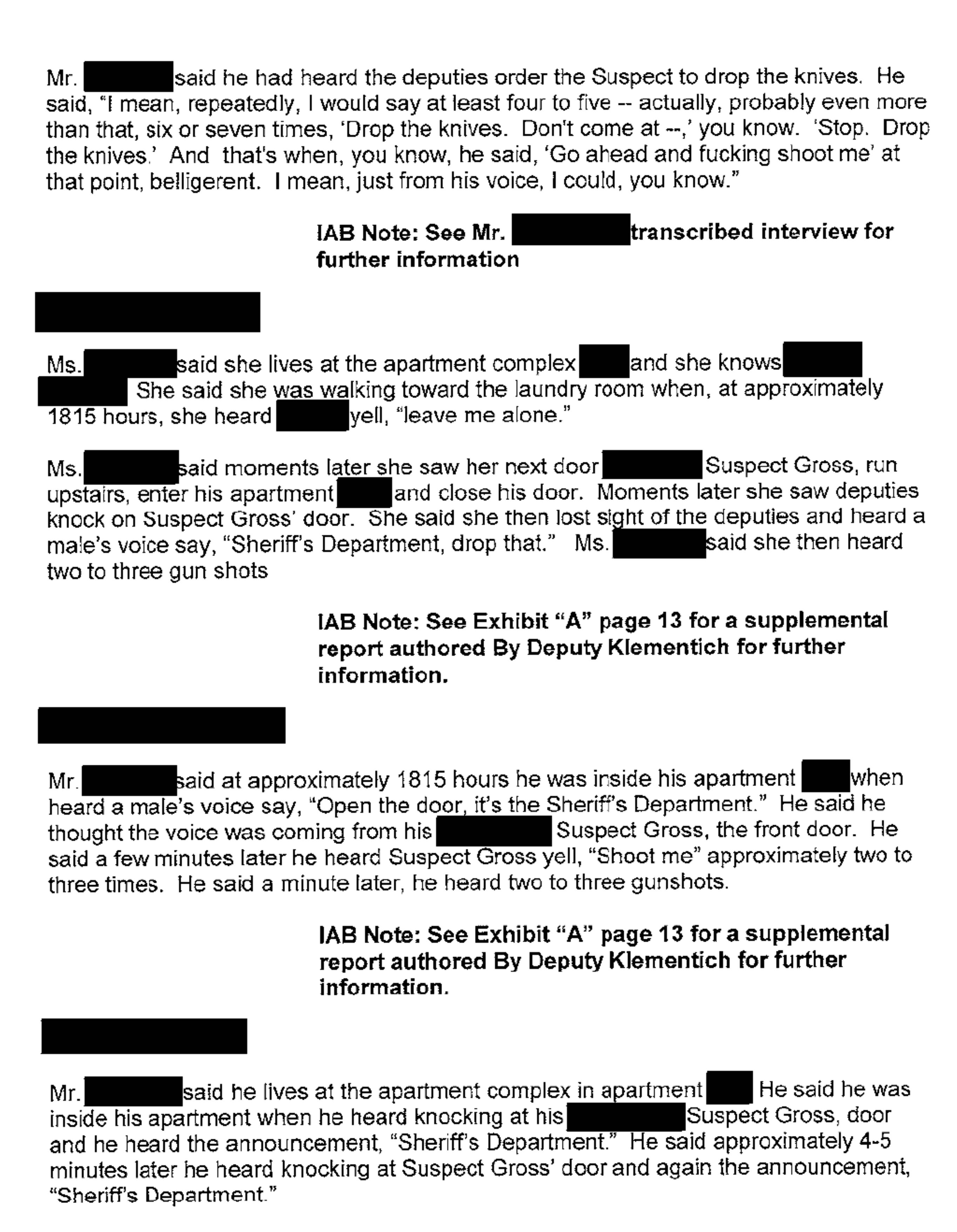
IAB Note: See Ms. [redacted] transcribed interview for further information

[redacted] was interviewed on August 1, 2009 at 2200 hours by Homicide Detectives Shipe and Ferguson. IAB Sergeant David Bly was also present during the interview. The interview took place at Temple Station and was recorded for review. The following is a summary of that interview.

Mr. [redacted] said he was on a ride-a-long with his [redacted] Deputy [redacted] when at the end of shift they responded to call. He said, "Okay. God, it was shortly right after 5:30. I mean, we were just heading back to end his shift. And the call came in for an officer needing assistance, I guess, for some backup. I think we were the third car there, and I walked around. I mean, I didn't stay in the car, so I was actually fairly close to where it happened. When we showed up, the guy/suspect was in his apartment. I was standing downstairs. He was on the upper level right by the -- up the stairwell. So I was standing down here when all this first started when everybody first got onto the scene. They knocked on the door. He didn't answer. They knocked on the door again a couple of times, and called -- some other officers showed up at this point, so there were more officers there. We were the third car there. And he finally opened the door and came out of the apartment. He had two machetes, and he was slicing them together like this, and I actually could see the sparks from where I was downstairs coming off of the knives anything. That's when the female officer (Molina) told me to move back out of the way, I mean because I was -- I wasn't in the way, I mean, but she wanted me out of -- if there was -- out of any danger area, I guess."

Mr. [redacted] said he was first standing next to the tree in the courtyard when deputies first knocked on the Suspect's door. He said Deputy Molina told him to move next to a wall in the hallway near the victim's [redacted] apartment door. He said, "I was just, yeah, standing next to it (tree), kind of keeping, you know, watching the scene as it unfolded at this point. But then once he came out of the apartment, that's when she told me to move back along the back wall behind the hall. I mean, I can still see the midst level of the stairwell where it turned around, and at this point -- and when I got to where I was watching on this landing on the stairwell, I could see the officers moving back down, you know, and telling him to drop his knives and things like this. And his response was, 'Go ahead and shoot me,' some profanity. Well, he was -- 'Go ahead and fucking shoot me' is what he said."

Mr. [redacted] said, "And they had called for a taser. I believe it was my [redacted] who tried to go over and down and find the taser in the sergeant's car and couldn't. And this -- the guy was in his doorway at first when all this kind of first started, when my brother went down to get to the taser. Couldn't find it, and he came running back, and then he had moved out of his apartment, and then that's when -- because he -- once he stepped out of the apartment, that's when the female officer told me to move out of the way. And from there, all I could really see was the landing, and then I saw them, the other officers moving back down the stairs after the confrontation and the shouts and telling him to drop his knives, and then two shots were fired. I heard both shots. I didn't see either of the officers shoot. I just heard the shots. I just heard the -- both gunshots. And I want to say they both went off within a half second of each other. I mean, it was boom, boom."



Mr. [redacted] said he had heard the deputies order the Suspect to drop the knives. He said, "I mean, repeatedly, I would say at least four to five -- actually, probably even more than that, six or seven times, 'Drop the knives. Don't come at --,' you know. 'Stop. Drop the knives.' And that's when, you know, he said, 'Go ahead and fucking shoot me' at that point, belligerent. I mean, just from his voice, I could, you know."

IAB Note: See Mr. [redacted] transcribed interview for further information

[redacted]

Ms. [redacted] said she lives at the apartment complex [redacted] and she knows [redacted] She said she was walking toward the laundry room when, at approximately 1815 hours, she heard [redacted] yell, "leave me alone."

Ms. [redacted] said moments later she saw her next door [redacted] Suspect Gross, run upstairs, enter his apartment [redacted] and close his door. Moments later she saw deputies knock on Suspect Gross' door. She said she then lost sight of the deputies and heard a male's voice say, "Sheriff's Department, drop that." Ms. [redacted] said she then heard two to three gun shots

IAB Note: See Exhibit "A" page 13 for a supplemental report authored By Deputy Klementich for further information.

[redacted]

Mr. [redacted] said at approximately 1815 hours he was inside his apartment [redacted] when heard a male's voice say, "Open the door, it's the Sheriff's Department." He said he thought the voice was coming from his [redacted] Suspect Gross, the front door. He said a few minutes later he heard Suspect Gross yell, "Shoot me" approximately two to three times. He said a minute later, he heard two to three gunshots.

IAB Note: See Exhibit "A" page 13 for a supplemental report authored By Deputy Klementich for further information.

[redacted]

Mr. [redacted] said he lives at the apartment complex in apartment [redacted] He said he was inside his apartment when he heard knocking at his [redacted] Suspect Gross, door and he heard the announcement, "Sheriff's Department." He said approximately 4-5 minutes later he heard knocking at Suspect Gross' door and again the announcement, "Sheriff's Department."

Mr. [redacted] said he heard the sound of a door opening. He said 4-5 minutes later he heard two gun shot very close together. He said he waited approximately 5 minutes and opened his front door. He said he saw Suspect Gross lying on his back, slightly moving his hands and mumbling something. He said he saw three deputies pointing their guns at Suspect Gross and he heard the deputies saying something about a knife.

IAB Note: See Exhibit "A" page 17 for a supplemental report authored by Deputy Schoen for further information.

IAB Note: See Exhibit "A" page 14 for a supplemental report authored by Deputy G. Gonzalez that listed four witness who stated they heard gun shots and/or yelling only.

SUSPECTS STATEMENTS

None



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

STEVE COOLEY • District Attorney
JOHN K. SPILLANE • Chief Deputy District Attorney
CURTIS A. HAZELL • Assistant District Attorney

JANICE L. MAURIZI • Director

November 25, 2009

Captain David Smith
Homicide Bureau
Los Angeles County Sheriff's Department
5747 Rickenbacker Road
Commerce, California 90040

Re: J.S.I.D. File # 09-0493
L.A.S.D. DR # 009-09959-0531-013

Dear Captain Smith:

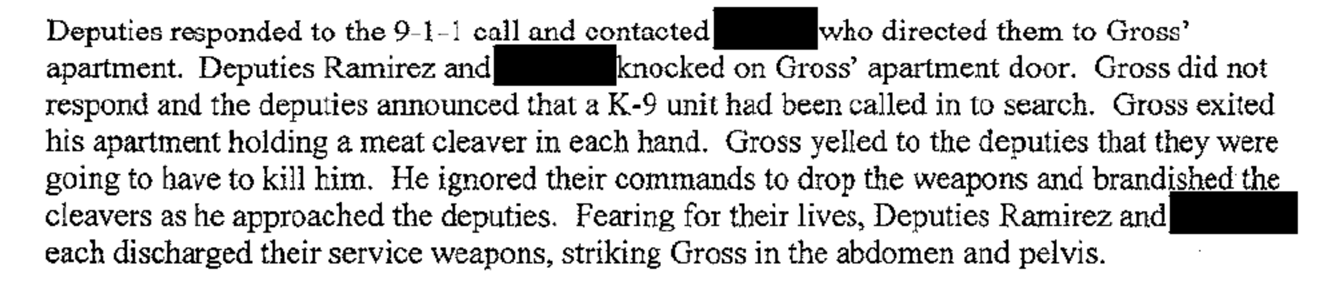
The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the August 1, 2009, fatal shooting of Howard Gross by Deputies Miguel Ramirez and [redacted] of the Los Angeles County Sheriff's Department (LASD). We find that these deputies acted in lawful self-defense.

The District Attorney's Command Center was notified of this incident at 6:53 p.m. on August 1, 2009. The District Attorney Response Team, consisting of Deputy District Attorney Susan Schwartz and Senior Investigator [redacted] responded to the scene and were given a briefing and walk-through by LASD investigators.

The following analysis is based upon the police reports and witnesses' statements submitted to this office on October 20, 2009, by Detectives Jonas Shipe and Angus Ferguson of the Los Angeles County Sheriff's Department Homicide Bureau. No compelled statements were considered in our analysis.

FACTUAL ANALYSIS

On August 1, 2009, [redacted] was at her [redacted] apartment on Ramona Boulevard in Rosemead. She left the apartment door open when she exited to get something from her car. She returned to the apartment and was watching television in the living room when she heard the back bedroom door open. [redacted] was startled because she believed she was alone in the apartment. She saw Howard Gross, who she recognized as her [redacted] standing in her [redacted] living room. Gross told [redacted] to be quiet. She pushed him and escaped from the apartment, yelling for the police. [redacted] went to an apartment next door and called 9-1-1.


Deputies responded to the 9-1-1 call and contacted [redacted] who directed them to Gross' apartment. Deputies Ramirez and [redacted] knocked on Gross' apartment door. Gross did not respond and the deputies announced that a K-9 unit had been called in to search. Gross exited his apartment holding a meat cleaver in each hand. Gross yelled to the deputies that they were going to have to kill him. He ignored their commands to drop the weapons and brandished the cleavers as he approached the deputies. Fearing for their lives, Deputies Ramirez and [redacted] each discharged their service weapons, striking Gross in the abdomen and pelvis.

On August 5, 2009, an autopsy was performed by Deputy Medical Examiner Eugene Carpenter, Jr., who ascribed Gross' death to multiple gunshot wounds.

A search of Gross' apartment revealed five empty beer cans on the table in front of the television. There were two fifths of vodka on the table as well – one was empty and the other was one-half full. Two more fifths of vodka and another six-pack of beer were found in the kitchen. A receipt on the counter next to the bag showed a purchase time of 5:31 p.m. A laboratory analysis of Gross' blood by the Coroner's Department showed a vitreous alcohol content of .33%.

Gross' neighbor told Sheriff's investigators that Gross had alcohol problems and that his [redacted] had just left him. An Emergency Protective Order was issued for Gross' [redacted] following a reported incident of domestic violence in June, 2009.


[redacted]

LEGAL ANALYSIS

Penal Code §§ 692-694 specifically authorize any individual protecting himself or another to use all force which he believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent the injury which appears to be imminent. (See CALJIC 5.30, 5.32)

The use of deadly force in self-defense or in defense of others is considered justifiable if the person claiming the right to use self-defense actually and reasonably believed that he or the person being defended is in imminent danger of death or great bodily injury. People v. Mercer (1962) 210 Cal.App.2d 153, 161; People v. Glover (1903) 141 Cal. 233, 239 and People v. Ortiz (1923) 63 Cal.App. 662, 668.

In Graham v. Connor (1989) 490 U.S. 386, the United States Supreme Court held that the reasonableness of the force used "requires careful attention to the facts and circumstances" of the particular incident "including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight." (*Id.*, at 396) Further the Court stated, "[t]he 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene rather than with the 20/20 vision of hindsight." (*Id.*, at 397) Moreover, "[t]he calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain and rapidly evolving – about the amount of force that is necessary in a particular situation." (*Id.*, at 397-398).

CONCLUSION

The evidence examined in this investigation shows that deputies Miguel Ramirez and David [redacted] responded to a burglary call and learned that Howard Gross had entered his [redacted] apartment without her permission. The deputies contacted Gross, who brandished two meat cleavers as he advanced on the deputies, ignoring their commands to drop the knives. Gross told the deputies "you are going to have to kill me." Fearing for their lives, the deputies each discharged their service weapons, striking Gross.

We find that Deputy Miguel Ramirez and Deputy [redacted] acted lawfully in self-defense. We are closing our file and will take no further action in this matter.

Very truly yours,

STEVE COOLEY
District Attorney

By [signature]
SUSAN SCHWARTZ
Deputy District Attorney
(213) 974-3888

c: Deputy Miguel Ramirez, #[redacted]
Deputy [redacted] #[redacted]